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**Legislative Assembly  
of Ontario**

Second Session, 40<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Deuxième session, 40<sup>e</sup> législature

# **Official Report of Debates (Hansard)**

Monday 25 February 2013

# **Journal des débats (Hansard)**

Lundi 25 février 2013

**Standing Committee on  
General Government**

Organization

**Comité permanent des  
affaires gouvernementales**

Organisation



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Monday 25 February 2013

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Lundi 25 février 2013

*The committee met at 1435 in room 228.*

## ELECTION OF CHAIR

**The Clerk Pro Tem (Mr. Trevor Day):** Honourable members, it is my duty to call upon you to elect a Chair. Are there any nominations? Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you, Clerk. I'd like to nominate Bas Balkissoon as Chair.

**The Clerk Pro Tem (Mr. Trevor Day):** Mr. Balkissoon, do you accept the nomination?

**Mr. Bas Balkissoon:** Yes, I do.

**The Clerk Pro Tem (Mr. Trevor Day):** Are there any further nominations? There being no further nominations, I declare nominations closed and Mr. Balkissoon duly elected as Chair.

## ELECTION OF VICE-CHAIR

**The Chair (Mr. Bas Balkissoon):** Thank you, all. We'll carry on with the business here. It is my duty to entertain a motion for Vice-Chair of the committee. Are there any motions? Mr. Colle?

**Mr. Mike Colle:** I'd like to nominate the member from Etobicoke Centre for Vice-Chair.

**The Chair (Mr. Bas Balkissoon):** Ms. Cansfield, do you accept?

**Mrs. Donna H. Cansfield:** I will accept.

**The Chair (Mr. Bas Balkissoon):** A motion has been moved by Mr. Colle that Ms. Cansfield be appointed Vice-Chair of the committee. Is there any debate? Everybody agrees? Carried.

## APPOINTMENT OF SUBCOMMITTEE

**The Chair (Mr. Bas Balkissoon):** Mr. Bartolucci, you have a subcommittee motion?

**Mr. Rick Bartolucci:** Yes, I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary to constitute a meeting;

That the subcommittee be composed of the following members: the Chair, Mr. Colle, Ms. Scott and Mr. Marchese; and

That substitution be permitted on the subcommittee.

**The Chair (Mr. Bas Balkissoon):** Mr. Bartolucci has moved a subcommittee motion. Any discussion or comments? If none, I will now put the question: Shall the motion carry—

*Interjection.*

**The Chair (Mr. Bas Balkissoon):** Oh, sorry; Mr. Marchese?

**Mr. Rosario Marchese:** No, it's fine. That's good. It was arising out of that.

**The Chair (Mr. Bas Balkissoon):** Oh, you're raising—you're quick?

**Mr. Rosario Marchese:** Maybe there's other business other than that, but hopefully we'll meet soon to discuss follow-up meetings that we might have, Chair, following the work that has been done over a number of issues.

**The Chair (Mr. Bas Balkissoon):** Okay, we'll deal with that. Let's finish with the subcommittee. Shall the motion carry? Carried.

Any other business? Mr. Marchese.

**Mr. Rosario Marchese:** The very one I just raised. In the last session, we had a number of hearings on various issues: aggregates being a big one; the other on gridlock, as well; and auto insurance, which went to a different committee but arose out of this one. I think we should get together as a committee and discuss what follow-up work we want on those things, and maybe other related things.

**The Clerk Pro Tem (Mr. Trevor Day):** Just as a note: In the prorogation everything died, so all those items are no longer before the committee. However, the committee does have the power to initiate those again. The one where there's a problem is that aggregate was a referral from the House. I believe that this committee can, through a 111, revive some of that. We'd have to look at it. My suggestion would be that perhaps the subcommittee meet, and we can prepare what can be revived for the committee, in and of its self-generating, and what needs to come from the House.

**Mr. Rosario Marchese:** Okay.

**The Chair (Mr. Bas Balkissoon):** Ms. Scott?

**Ms. Laurie Scott:** I just want to follow up to say that we'd like to set a meeting date for next week. We may look at entertaining other motions—we're just not quite ready yet—but I just wondered if we could agree maybe next Monday to meet again at the usual time for the committee.

**Mr. Rick Bartolucci:** The subcommittee or the committee?

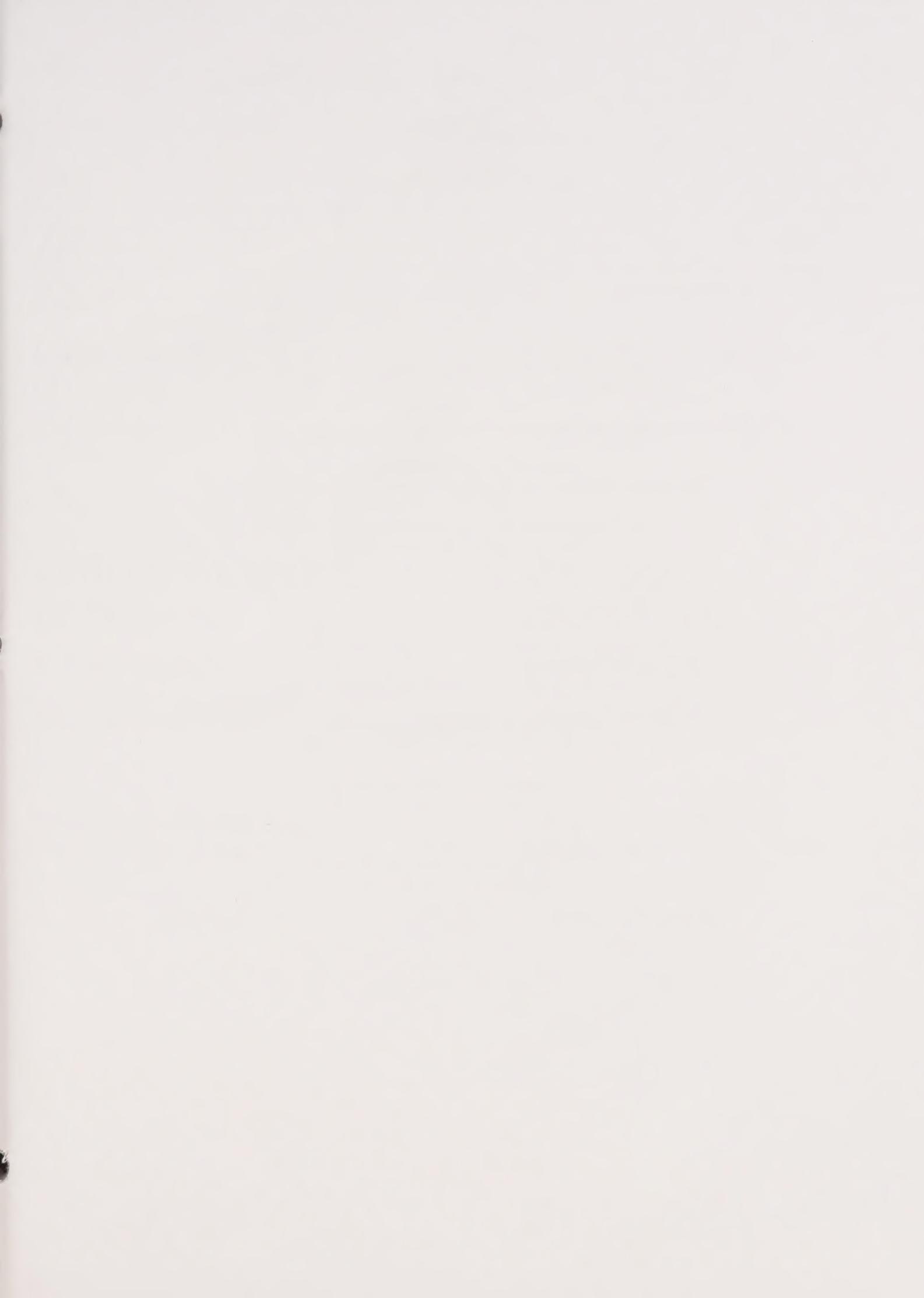
**Ms. Laurie Scott:** The committee.

**The Chair (Mr. Bas Balkissoon):** I have a request by Ms. Scott that the committee meet at its regularly sched-

uled time next Monday. Any discussion, comments? Agreed that we meet? Carried.

Any other business? I move that the committee be adjourned until next Monday at 2 o'clock.

*The committee adjourned at 1439.*







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#### **Vice-Chair / Vice-Président**

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Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Rick Bartolucci (Sudbury L)

Ms. Sarah Campbell (Kenora–Rainy River ND)

Mrs. Donna H. Cansfield (Etobicoke Centre / Etobicoke-Centre L)

Mr. Mike Colle (Eglinton–Lawrence L)

Mr. Rosario Marchese (Trinity–Spadina ND)

Ms. Laurie Scott (Haliburton–Kawartha Lakes–Brock PC)

Mr. Todd Smith (Prince Edward–Hastings PC)

Mr. Jeff Yurek (Elgin–Middlesex–London PC)

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#### **Clerk pro tem / Greffier par intérim**

Mr. Trevor Day

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ISSN 1180-5218

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Second Session, 40<sup>th</sup> Parliament

**Official Report  
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Monday 4 March 2013

Standing Committee on  
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Committee business

Assemblée législative  
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Deuxième session, 40<sup>e</sup> législature



**Journal  
des débats  
(Hansard)**

Lundi 4 mars 2013

Comité permanent des  
affaires gouvernementales

Travaux du comité

Chair: Bas Balkissoon  
Clerk: Sylwia Przedzciecki

Président : Bas Balkissoon  
Greffière : Sylwia Przedzciecki

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STANDING COMMITTEE ON  
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Monday 4 March 2013

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Lundi 4 mars 2013

*The committee met at 1401 in room 228.*

## COMMITTEE BUSINESS

**The Chair (Mr. Bas Balkissoon):** We'll call the meeting to order of the Standing Committee on General Government on Monday, March 4, at 2 p.m. I have an agenda here: organization, whatever the committee wants to discuss.

Ms. Scott.

**Ms. Laurie Scott:** I'd like to move a motion, please. I know you have the papers in front of you. A couple of ministries have just changed the name a bit, so I will read that into the record the way it's changed to the new ministries.

I move that, pursuant to standing order 111(a), the Standing Committee on General Government restart its study and report upon the mandate, management, organization and operation of the Ministries of Economic Development, Trade and Employment; Research and Innovation; Environment; Infrastructure; Labour; Municipal Affairs and Housing; Tourism, Culture and Sport; Consumer Services; Finance; and Transportation vis-à-vis the economic, social and environmental impacts of traffic congestion or "gridlock" in both the Greater Toronto and Hamilton Area and the Ontario side of the National Capital Region.

The committee would, as necessary, call upon the aforementioned ministries, as well as appropriate stakeholders, to study the issue of gridlock and solutions to it so as to bolster economic development, job creation and to recommend more ways to enhance the flow of people and goods throughout the GTHA, NCR and connected regions. The study would include but not be limited to:

—determining the level of any adverse effects that gridlock may have on economic development and job creation;

—assessing the true economic costs of traffic congestion in the GTHA and NCR;

—determining any human costs associated with traffic congestion and the impact it may or may not have on families;

—determining the localized effects in the GTHA and NCR of traffic congestion vis-à-vis economic development, business improvement areas, localized job creation and the business/personal profitability and productivity of small businesses;

—assessing and reporting on ways to lessen the burden of gridlock, burden on businesses and labour vis-à-vis enhancing and promoting productivity, logistics, flow of goods and commuting times;

—determining innovative short-term and long-term solutions on improving the efficiencies of highway, rail and other transportation corridors and how to improve transportation methods in those corridors to move people and goods in the GTHA and NCR more efficiently, cost-effectively; and

—studying new models of affordable, sustainable and viable public transportation and identifying innovative options that enhance modalities of regional, inter-regional and municipal public transportation within the GTHA and the NCR, whether public or private, and assessing the costs of implementing those options and operating them, including capital funding and operation fare/payment models;

—studying new and/or alternative and sustainable approaches to funding transportation and transit solutions in the GTHA and the NCR; and

—determining innovative ways to enhance efficiency of freight in the region, including regional freight rail options, grade separations, intermodal freight facilities and methods to improve environment efficiencies to reduce fuel costs and environmental impact.

Notwithstanding the above, the Chair of the committee shall seek authorization from each of the House leaders of the recognized parties in the Legislature so that the committee may be able to adjourn from place to place in Ontario for the purposes of holding public hearings in such locations.

The acronyms I used I think everyone knows, but I'll just clarify that GTHA is the Greater Toronto and Hamilton Area, and NCR is the National Capital Region.

**The Chair (Mr. Bas Balkissoon):** Thank you. Would you like to speak to your motion first?

**Ms. Laurie Scott:** I think that we've restarted the work that the committee had been doing on gridlock—can I summarize?—in these areas before, and we want to continue and hopefully be afforded maybe some travel opportunities to go to the regions I've mentioned, as well. I think that we have the support of the third party also in progressing with this, and hopefully the support of the government, as we did before.

**The Chair (Mr. Bas Balkissoon):** Further comments? Ms. Cansfield, and then Mr. Colle.

**Mrs. Donna H. Cansfield:** I'm very supportive. I think it's virtually the same as you had before.

The other question I had—and it's really an issue of the art of the possible around the freight rail, because of the jurisdiction federally; we don't have as much authority on freight and rail. We could probably do some, but we might not be able to do quite what you anticipate here because of that jurisdictional issue.

**Ms. Laurie Scott:** Sure, but they can still report on the economic, social and environmental impacts indirectly.

**Mrs. Donna H. Cansfield:** I was just thinking, more from the other—that it would be nice to be able to get some light-freight options and really look at that issue, but they may not be as amenable to that—as long as we know. But I'm very supportive.

**Ms. Laurie Scott:** Okay.

**The Chair (Mr. Bas Balkissoon):** Further comments? Mr. Colle.

**Mr. Mike Colle:** Yes, I was just wondering—we had three things we were dealing with. Should we be talking about the process here, or are we talking about the motion? Are we dealing with the auto insurance file?

**The Chair (Mr. Bas Balkissoon):** On the agenda, we have “Organization.” So we can discuss anything, and the Clerk will advise on what we have to do on each one.

**Mr. Mike Colle:** Okay, then I'll speak on this. One of the glaring omissions here is that there's nothing about cycling infrastructure and cycle-safe roads in urban centres and in regional centres to relieve road congestion. So I wonder if we could use that as a friendly amendment, that we could also include the role of cycling infrastructure to relieve congestion and to enhance cycling safety throughout the province at the same time.

**The Chair (Mr. Bas Balkissoon):** Are you suggesting a particular amendment, like you have worded? Or do you want some help?

**Mr. Mike Colle:** No, my amendment is that, along with looking at regional freight options, grade separations and intermodal freight facilities, we also look at cycling infrastructure throughout Ontario as a way of relieving road congestion and making roads safer for drivers and cyclists.

*Interjections.*

**The Chair (Mr. Bas Balkissoon):** We'll get him to move it later. Any further comments?

**Mr. Rick Bartolucci:** Sorry, for the last bullet, Mike—because I think it captures a little bit of what you want—just put “such as cycling”; “cycling matters,” right?

“Determining innovative ways to enhance efficiency of freight in the region including regional freight rail options, grade separations, intermodal freight facilities, and methods to improve environment efficiencies to reduce fuel costs and environmental impact, as well as the use of cycling matters.”

**The Chair (Mr. Bas Balkissoon):** Any further comments or questions of the last speaker on his suggested amendment? Ms. Scott.

**Ms. Laurie Scott:** The witnesses that want to appear before committee could talk about that topic if you wanted to, without making an amendment to it. I mean, we wouldn't be opposed to that. There have been some examples in Toronto, I think, with cycling lanes and what has gone on—good or bad.

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**Mr. Mike Colle:** Yes, in fact, Norm Miller had—

**The Chair (Mr. Bas Balkissoon):** One on highways.

**Ms. Laurie Scott:** Yes. I wasn't on the gridlock committee last time, but we did hear from them on several occasions.

**The Chair (Mr. Bas Balkissoon):** Since I have no further comments, I have an amendment moved by Mr. Colle. It's going to be added to the last bullet, at the very end: “And to examine cycling infrastructure as a means of reducing congestion and at the same time enhancing road and cycling safety.”

All in favour?

*Interjections.*

**The Chair (Mr. Bas Balkissoon):** This is the amendment. All in favour? Any against?

**Ms. Teresa J. Armstrong:** Excuse me, where is it being amended?

**The Chair (Mr. Bas Balkissoon):** Okay, I'll read it. It's the main motion moved by Ms. Scott, the very last bullet point; this is going to be added at the very end. It reads: “And to examine cycling infrastructure as a means of reducing congestion and at the same time enhancing road and cycling safety.”

I'm just going to take a vote on the amendment. Is there any debate on it, or should I take the vote?

**Mr. Mike Colle:** Recorded vote.

*Interjections.*

**The Chair (Mr. Bas Balkissoon):** A recorded vote is requested; I have to take it.

**Ayes**

Armstrong, Bartolucci, Campbell, Cansfield, Colle.

**The Chair (Mr. Bas Balkissoon):** Carried.

We'll move on. I have the main motion as moved by Ms. Scott. Ms. Cansfield?

**Mrs. Donna H. Cansfield:** If I may, I'm going to move an additional amendment to the motion, and I would add it just as a new paragraph, a new bullet: “Including a discussion of the new investment tools, a national strategy on infrastructure and transit, and the special transportation needs of Ontario's north.”

**The Chair (Mr. Bas Balkissoon):** Everybody heard the amendment? Do you want to speak to it?

**Mrs. Donna H. Cansfield:** Yes. In fact, what we're trying to do is to look at what the new investment tools are so we have an opportunity to have those discussions. Is there a national strategy that somehow we can clue into, on infrastructure, that is going to be debated? That has been discussed by the Prime Minister—and not just on the infrastructure but also on transit and the special

transportation needs of Ontario's north, for the obvious reason that if you're going to look at rail, for example, you can't exclude some of the issues in the north. If you're going to look at the distribution of freight, for example, you might want to look at the whole issue around what I call the H<sub>2</sub>O highway, the Great Lakes, which is not captured in your motion.

**Ms. Laurie Scott:** Well, some of it is.

**Mrs. Donna H. Cansfield:** It might be, but you specified freight on rail. I think of freight on the water, and I think that should also be included. I remember actually putting that desk back into the ministry, both waterway and air and rail, because it had been taken out.

I'll give this as an amendment to the main motion.

**Ms. Laurie Scott:** I think that they want to do a little bit of a consult here because we're getting away from what was agreed upon before.

**Mrs. Donna H. Cansfield:** We're just trying to enhance it, not to—

**Ms. Laurie Scott:** It's just that if you bring in the north—I'm not opposed. It's just that we're doing the gridlock down here. I don't disagree with what you're saying about northern issues and transportation of freight. It's just that we could be travelling forever; this may go on and on a lot. So it might be better to have a separate motion on that.

Can we ask for a recess for—

**Mr. Michael Harris:** Five minutes.

**Ms. Laurie Scott:** —five minutes, 10 minutes, to see what they want to do?

**Mrs. Donna H. Cansfield:** Don't forget: I'm serious about the H<sub>2</sub>O highway and the whole fact that that's a federal jurisdiction, but it's definitely on our doorstep and should be included in the transportation to relieve the gridlock.

**The Chair (Mr. Bas Balkissoon):** Could I take control of the meeting? I've got a lot of hands up. I know you guys want to debate it, so I'm going to have to follow procedure.

Before I get into the debate, I'm going to read you the amendment. It's moved by Ms. Cansfield, and it will be the last bullet point: "Including a discussion of the new investment tools, a national strategy on infrastructure and transit, and the special transportation needs of Ontario's north."

Further debate? I had Ms. Campbell with her hand up.

**Ms. Sarah Campbell:** Thank you, Chair. Are there a number of amendments that the Liberals are planning on proposing? I would like to have some of these in writing, and I'd also like us to have a 10-minute recess so we could discuss them. A little bit of advance notice would be nice.

**The Chair (Mr. Bas Balkissoon):** Ms. Campbell has requested a 10-minute recess. All in agreement? Agreed.

Okay, we'll recess for 10 minutes and reconvene at 2:26.

*The committee recessed from 1416 to 1427.*

**The Chair (Mr. Bas Balkissoon):** We'll reconvene the meeting.

Before we broke, I had a motion, an amendment from Ms. Cansfield:

That the motion be amended by adding the following as a separate point: "Including a discussion of the new investment tools, a national strategy on infrastructure and transit, and the special transportation needs of Ontario's north."

Any debate?

**Mrs. Donna H. Cansfield:** Can we have a recorded vote?

**The Chair (Mr. Bas Balkissoon):** First I have to go through this.

Is there any debate? Comments, questions? Ms. Campbell.

**Ms. Sarah Campbell:** I would support this, because I think it's important for us to look at some of the transportation challenges in the north. We don't necessarily have gridlock per se. Our main issue is really lack of transportation routes or access.

In addition to road transportation, like with highways and whatnot, I'd also like to see us look at passenger rail service, which is also something that we're in desperate need of.

I'll support this.

**The Chair (Mr. Bas Balkissoon):** Mr. Colle.

**Mr. Mike Colle:** I think this is a reinforcing of what the main motion is, because as Ms. Campbell, the member from Kenora–Rainy River, said, there are significant transportation issues in terms of rail and what's the most effective way of using rail transport. The technology in rail transport—as you know, Mr. Speaker, we're one of the few countries in the world that doesn't have high-speed electric rail. They've had it in China, Taiwan, Japan and all over Europe for the last 30, 40 years. Here we are in Canada and we still don't have fast, reliable electric rail.

This might be part of the future in terms of what kinds of rail technology or transportation technology might be used in partnership with northern municipalities to develop transportation modes.

As you know, the ironic thing is that Thunder Bay, in the north, is the great producer of heavy rail or electric rail for Toronto, so there is a link between transportation issues that occur in the north, the jobs that are in the north, and the jobs and congestion and transit issues that exist in the GTA. You can't really separate them out, because we're all interconnected.

This is a very good way of putting things into a provincial perspective and paying some attention to the transportation challenges that affect all of Ontario and also affect people in the north. This is, I think, a very progressive and a very, very positive addition to the main motion.

**The Chair (Mr. Bas Balkissoon):** Ms. Cansfield.

**Mrs. Donna H. Cansfield:** I would like to make an amendment. I apologize for this, but you'll understand why when I said no, I wouldn't make another amendment. I'd like to amend the amendment so that at the end

of paragraph 1, where it says “in both the Greater Toronto and Hamilton Area and the Ontario side of the National Capital Region,” I’d like to put “and Ontario north” or “northern Ontario,” whichever is preferable.

**The Chair (Mr. Bas Balkissoon):** Okay, does everybody understand her requested change? Any discussion? Mr. Harris.

**Mr. Michael Harris:** So you would disagree that Ontario north is not part of the connected regions to the GTHA or NCR?

**Mrs. Donna H. Cansfield:** If I may respond, I would respectfully submit that transportation is an issue in all of Ontario, not just specific to a particular region, and that’s why I included Ontario’s north.

**Mr. Michael Harris:** All right. I guess my only statement is we want to reiterate the initial intent of this motion, and that’s to study gridlock in the GTHA and NCR. We can go on and on and on—and not to suggest that these amendments aren’t worthy of possible further discussion; however, the intent, again, is to continue the committee’s work on gridlock in these two areas important to the Ontario economy. I simply want to state that for the record. Anything else is great; however, it takes away from the committee’s intent to study gridlock within these two important areas of Ontario.

**The Chair (Mr. Bas Balkissoon):** Ms. Campbell, did you have your hand up? Okay. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** If I may, in terms of responding, I appreciate that, but I guess I’ve sat in so many committees where everything is south of Highway 7. There is the great Ontario north that has just as many challenges as they do in the south; they’re just different. So I think it’s time to think of Ontario inclusively, not exclusively, as one particular region. I believe that if we are looking at a national strategy, there’s no question in my mind that it must include the north. It can’t just be something that is a rail train from Montreal to Windsor kind of thing; it has to be far more inclusive. That’s the reason for—and also looking at using the natural resources in the north such as the waterways in order to increase the capacity for transportation, which in fact could relieve some of that gridlock that’s in southern Ontario.

**The Chair (Mr. Bas Balkissoon):** Mr. Harris?

**Mr. Michael Harris:** I don’t disagree with you. However, the motion that’s in front of us, again, asks this committee to study gridlock in both the GTHA and the Ontario side of the National Capital Region—the impacts of traffic congestion or gridlock.

**Mrs. Donna H. Cansfield:** That’s why I amended it.

**The Chair (Mr. Bas Balkissoon):** Ms. Campbell.

**Ms. Sarah Campbell:** I would argue that in a manner of speaking, northern Ontario does experience gridlock; it’s the fact that we’re limited in the routes that we can take. I know this is an aside; it’s not necessarily what

we’re talking about right now but, for instance, winter road maintenance. Because we only have very limited transportation corridors, when something like winter road maintenance can shut down a highway, we are experiencing these problems. So I would argue that it is important for us to look at northern Ontario as well.

**The Chair (Mr. Bas Balkissoon):** Okay, I have no more speakers, so I will take the amendment to the amendment, which is the main paragraph of the motion, to add the words “and northern Ontario” after the words “connected regions.” All in favour?

**Mr. Mike Colle:** Recorded vote.

### Ayes

Armstrong, Bartolucci, Campbell, Cansfield, Colle, Harris, Scott, Yurek.

**The Chair (Mr. Bas Balkissoon):** Carried.

Now the motion itself, which is, Ms. Cansfield moved that the motion be amended by adding the following as a separate point: “Including a discussion of the new investment tools, a national strategy on infrastructure and transit, and the special transportation needs of Ontario’s north.” All in favour? A recorded vote.

### Ayes

Armstrong, Bartolucci, Campbell, Cansfield, Colle, Harris, Scott, Yurek.

**The Chair (Mr. Bas Balkissoon):** Carried.

Any further business?

**The Clerk of the Committee (Mr. Trevor Day):** We didn’t actually carry the—

**The Chair (Mr. Bas Balkissoon):** Oh, the motion itself? Okay, sorry about that. I’m moving faster than my head.

Now we’ll take the main motion, as amended: All in favour? Carried.

Any further business? Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Can I ask that the subcommittee meet to discuss this process, and then report back to the committee on how they wish to go about it? Presumably, something similar to what you did before on the aggregates or something.

**The Chair (Mr. Bas Balkissoon):** I have a request by Ms. Cansfield for the subcommittee to have a meeting to discuss this, and how we proceed, at the call of the Chair. Everybody agree? Agreed.

Anything else? Any further business? Committee is adjourned.

*The committee adjourned at 1436.*



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Assemblée législative  
de l'Ontario

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# Official Report of Debates (Hansard)

Monday 25 March 2013

# Journal des débats (Hansard)

Lundi 25 mars 2013

Standing Committee on  
General Government

Comité permanent des  
affaires gouvernementales

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Monday 25 March 2013

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Lundi 25 mars 2013

*The committee met at 1403 in room 228.*

## SUBCOMMITTEE REPORT

**The Chair (Mr. Bas Balkissoon):** We'll call to order the meeting of the Standing Committee on General Government on Monday, March 25, 2013, for the study of traffic congestion in the greater Toronto-Hamilton area, the National Capital Region and northern Ontario. We have the report of the subcommittee on committee business. Mr. Colle?

**Mr. Mike Colle:** I'll read the subcommittee report.

Your subcommittee on committee business met on Wednesday, March 20, 2013, to consider the method of proceeding on a study of gridlock in the greater Toronto and Hamilton area, the National Capital Region and northern Ontario, pursuant to standing order 111(a), and recommends the following:

(1) That the committee meet for the purpose of holding public hearings on Monday, April 8, 2013, and Wednesday, April 10, 2013, in Toronto.

(2) That an invitation to appear before the committee be sent to Metrolinx, the Toronto Transit Commission, the Toronto Board of Trade and the Ministry of Transportation, and that each organization be offered 10 minutes for their presentation, followed by 15 minutes for questions by committee members.

(3) That the committee Clerk post information regarding public hearings in the Toronto Star, the Ontario edition of the Globe and Mail, the Ottawa Citizen, the Hamilton Spectator, the newspapers covering the region of Durham, L'Express, Le Droit and Le Régional for one day during the week of March 25, 2013.

(4) That the committee Clerk post information regarding public hearings on the Ontario parliamentary channel, the Legislative Assembly website and CNW newswire service.

(5) That interested parties who wish to be considered to make an oral presentation contact the committee Clerk by 12 noon on Tuesday, April 2, 2013.

(6) That the length of presentations for witnesses be five minutes for their presentation followed by 15 minutes for questions by committee members.

(7) That, in the event all witnesses cannot be scheduled, the committee Clerk provide the members of the subcommittee with a list of requests to appear.

(8) That the members of the subcommittee prioritize and return the list of requests to appear by 12 noon on Wednesday, April 3, 2013, and that the committee Clerk schedule witnesses based on those prioritized lists.

(9) That the committee agree to hold additional public hearings in Ottawa and other GTHA locations, subject to receiving authority from the House.

(10) That the committee Clerk, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

**The Chair (Mr. Bas Balkissoon):** Thank you. Any discussion? Mr. O'Toole.

**Mr. John O'Toole:** Yes, Chair, thank you. I appreciate the subcommittee report.

There are a couple of amendments we'd like to make; they're more administrative or clarification issues. Is it time now to read the amendments?

I'm looking at the preamble paragraph, and starting with the section there that says to go to the greater Toronto and Hamilton area, GTHA, the National Capital Region—this addition, this particular insert is: "and a study of roads and bridges infrastructure in northern Ontario." That's inserted, and it's also deleting the words which I've not read, which were read in there—I guess I could say it's striking out—

**The Chair (Mr. Bas Balkissoon):** Mr. O'Toole, the mandate was set in our previous committee, and the preamble is the direction of the motion from the previous meeting. We can't change the motion of the previous meeting.

**Mr. John O'Toole:** That being the case, then I would probably like to add a section number 11, which is for clarification. In section 11, I would be saying, "That the committee will undertake a study of roads and bridge infrastructure in northern Ontario."

**The Chair (Mr. Bas Balkissoon):** Okay, I would rule that that particular amendment is acceptable because of our previous request for northern Ontario. Further comments or discussion?

**Mr. John O'Toole:** Are we moving and voting on that now?

**Mr. Rosario Marchese:** Do you have any other changes, John?

**Mr. John O'Toole:** Yes, I have other changes.

**Mr. Rosario Marchese:** Why don't we do them all at once?

**The Chair (Mr. Bas Balkissoon):** Okay, we'll do them all at once.

**Mr. John O'Toole:** All right. I'm going now to number 6. And number 6 is an insertion; it's a clarification. Currently, it will now read: "That the length of presentations for witnesses not listed in number 2 be five minutes for their presentations, followed by 15 minutes for questions by committee members."

It's strictly an insertion to clarify the time. Okay?

**The Chair (Mr. Bas Balkissoon):** Anything else?

**Mr. John O'Toole:** No.

**The Chair (Mr. Bas Balkissoon):** Any discussion on those amendments?

**Mr. Rick Bartolucci:** Both are agreeable. The second amendment—why? It's not changing anything, but if it's just for clarification, that's fine.

**The Chair (Mr. Bas Balkissoon):** Ms. Campbell, you had your hand up?

**Ms. Sarah Campbell:** I was just going to say that these changes make sense because in northern Ontario, we do have some distinctly separate and unique challenges from some of the more populated areas, but they're equally important.

**The Chair (Mr. Bas Balkissoon):** Mr. Rosario Marchese.

**Mr. Rosario Marchese:** In addition, this avoids some of the amusement that some people would have with us, as you might imagine, because in that paragraph, we talk about gridlock and you include northern Ontario. So as a way of avoiding some of the amusement that some members could have with us, by including that as a number 11, I think it takes care of it.

**Mr. John O'Toole:** With respect, just listening to the questions to the Minister of Northern Development and Mines—and transportation as well—the House leader for the NDP did on a couple of occasions raise the question of road conditions and salting and those other things in northern Ontario. I think it's appropriate if those constitute a risk to the public in northern Ontario.

**Mr. Rosario Marchese:** Rick is agreeing with us, John.

**Mr. John O'Toole:** Well, that's good. I'm just clarifying. That's a respectable amendment.

**The Chair (Mr. Bas Balkissoon):** Okay, any other comments on the amendment? We'll take the vote on the amendment. All in favour? Carried.

Any further amendment to the subcommittee report?

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**Mr. Rosario Marchese:** Not amendments—motions.

**The Chair (Mr. Bas Balkissoon):** Motions? Ms. Campbell.

**Ms. Sarah Campbell:** Oh, I can go ahead?

**The Chair (Mr. Bas Balkissoon):** Yes.

**Ms. Sarah Campbell:** I have a motion to move. I move that pursuant to—

**The Chair (Mr. Bas Balkissoon):** This is on the subcommittee report, right?

**The Clerk Pro Tem (Mr. Trevor Day):** We're going to finish the subcommittee report first.

*Interjection.*

**The Chair (Mr. Bas Balkissoon):** This is separate?

**Ms. Sarah Campbell:** Separate.

**The Chair (Mr. Bas Balkissoon):** No, let's do the subcommittee report, and then we'll do it under other business. Okay?

**Mr. Rosario Marchese:** Yes.

**The Chair (Mr. Bas Balkissoon):** The subcommittee report, as amended: All in favour?

*Interjection:* Carried.

**The Chair (Mr. Bas Balkissoon):** Carried.

## COMMITTEE BUSINESS

**The Chair (Mr. Bas Balkissoon):** Further business? Ms. Campbell.

**Ms. Sarah Campbell:** We're just handing out some of the copies right now, but I'll read it as people are receiving them.

I move that, pursuant to standing order 111(a), the Standing Committee on General Government initiate a fair and balanced study into a range of auto insurance industry practices and trends with the purpose of developing recommendations on how to make insurance rates more affordable, and that the committee report its findings to the House. The study shall include witnesses to be called upon to assist the committee and shall include but not be limited to:

—the current overall profitability of the Ontario auto insurance industry, with an analysis of current and future trends in both Ontario investment and underwriting net income derived from auto insurance;

—the profitability of auto insurance underwriting in Ontario and costs related to Ontario underwriting, with particular emphasis on industry savings in the post-September 30, 2010 era where the statutory accident benefits regime was amended;

—assessing the adequacy of med rehab treatment as per the capped minor injury guideline;

—the relationship between insurance underwriters and their sales representatives and/or the role independent brokers of insurance play in the industry. This would include an in-depth look at the extent to which brokers that portray themselves as independent of insurers really are independent;

—the impact of fraud in the insurance industry and how that impacts insurance rates;

—assessment of the adequacy of the current definition of "catastrophic injury";

—ongoing and future trends in claims fraud, as well as the quantification of industry savings that will be generated with the implementation of the recommendations of the anti-fraud task force;

—the appropriateness of the 12% return on equity rate and the approvals mechanisms related to the ROE rate, with an emphasis on the report of the subject commissioned by FSCO;

—reviewing the auto insurance dispute resolution system and the status of FSCO's efforts to deal with the mediation and arbitration backlog; and

—reviewing risk assessment factors of drivers and the corresponding rates assigned to particular drivers, as well as the eligibility and classification factors that currently determine individual, corporate and fleet coverage. The issue of the appropriateness of the current approach to “territory” would be a particular focus of this component of the committee's work.

*Interjection.*

**Ms. Sarah Campbell:** Oh, and I move that hearings on this study shall begin during the regularly scheduled hours of the Standing Committee on General Government on Monday—

**The Chair (Mr. Bas Balkissoon):** Let's deal with one motion at a time. We'll come back.

**Mr. Rosario Marchese:** Why don't we do it all at once, Mr. Chair? Why would you separate the two?

**The Clerk Pro Tem (Mr. Trevor Day):** Under 111, it's the focus of the study, and then the committee will make—

**Mr. Rosario Marchese:** Okay. Fine.

**The Chair (Mr. Bas Balkissoon):** Okay. So on the motion: discussion, comments?

Ms. Campbell, would you like to add anything to your motion?

**Ms. Sarah Campbell:** No.

**The Chair (Mr. Bas Balkissoon):** Mr. Colle?

**Mr. Mike Colle:** Yes. I just wonder how this is going to fit in the timetable, given we've just approved the subcommittee report on something that this committee's going to look at in depth, and that is congestion. If you notice, in the subcommittee report we just passed, it says, “That the committee agree to hold additional public hearings in Ottawa and other GTHA locations, subject to receiving authority from the House.”

So we are putting definite dates—they're saying April 15 and 17—when we haven't even started the committee's work on congestion that we're seized with right now. I think we should table this and refer it to the subcommittee for a discussion because this has just been thrown at us right now. We have never even determined the exact dates we're going to be dealing with congestion, so let it go to the subcommittee and let the subcommittee determine when, how and where it wants to look at auto insurance.

**The Chair (Mr. Bas Balkissoon):** Are you moving that as a motion?

**Mr. Mike Colle:** Yes.

**The Chair (Mr. Bas Balkissoon):** Okay. Ms. Wong?

**Ms. Soo Wong:** Last year, SCFEA, the Standing Committee on Finance and Economic Affairs, had a hearing, and all three parties were involved. If the motion gets passed by Ms. Campbell today, I want to remind members of this committee to look at what was discussed from the witnesses instead of revamping another reel of hearings and witnesses and what have you across

Ontario. We went to Windsor, we went to Brampton, and we were here.

You have a lot of work to do. I think all of us would be interested in working with you in dealing with the subcommittee motion dealing with traffic and gridlock. But with regard to this issue of auto insurance, I know SCFEA have been working on this file. If it is going to be the will of this committee to look at auto insurance, I want to remind everybody to take the information from SCFEA to make sure it doesn't get lost because there are so many committee works on this file already. Those are my comments, Mr. Chair.

**The Chair (Mr. Bas Balkissoon):** Mr. Marchese?

**Mr. Rosario Marchese:** Just three things. First of all, it's the full committee that makes decisions. We could refer it back, but we really don't have to because when you've got all the members here, we make the decisions. That's the first.

The second is in the last session, we brought forward three issues that we wanted to debate: the issue of gridlock, the issue of auto insurance and the issue of aggregates. If the members recall, at that time we had an agreement to actually do all three, and we did. It doesn't prevent us from doing different things at different times, as we did in the last session.

Three, in response to Ms. Soo Wong, if she just observes what we supported—because the Liberals, as I understand, when I was sick introduced this motion—we've now added northern Ontario to this debate. We included that that should include roads, bridges and infrastructure, which changes the tenor of the whole discussion. If we can change something, we can change another.

Just as a refresher: We make all the decisions as a committee. Last time, we decided that we should deal with auto insurance as well. Soon I will either introduce a motion or will support Mr. Colle when he talks about the need to review what we've done on aggregates.

This is the second motion we're bringing forth. I hope to be able to do the same with aggregates in collaboration with Mr. Colle at some point.

**The Chair (Mr. Bas Balkissoon):** Ms. Campbell?

**Ms. Sarah Campbell:** That's fine. I'm fine right now.

**The Chair (Mr. Bas Balkissoon):** Further discussion? None? We'll take the motion as is in front of us. Everybody has a copy? All in favour?

**Mr. Mike Colle:** My motion comes first.

**The Chair (Mr. Bas Balkissoon):** I have to get this approved first.

**Mr. Monte McNaughton:** We're doing Sarah's first?

**Mr. Rosario Marchese:** The motion.

**The Chair (Mr. Bas Balkissoon):** Yes, the motion. All those in favour? Opposed? Carried.

**Ms. Sarah Campbell:** I have another motion. I move that hearings on this study shall begin during the regularly scheduled hours of the Standing Committee on General Government on Monday, April 15 and Wednesday, April 17, 2013.

**The Chair (Mr. Bas Balkissoon):** We have a second motion. Any discussion? Mr. Bartolucci?

**Mr. Rick Bartolucci:** Dealing with Sarah's second motion—it's just my opinion here. If we're going to do justice to anything that we decide as a committee to do, I think we should be doing one job, one job well and then moving to a second job and doing that well. To be perfectly honest with you, we passed this first motion; we would do it no justice at all in only two meetings. We would be paying lip service to it. Some motions would probably come out of it, and it would be purely political. We know the end result. Are we going to be serious with this or not?

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I'm suggesting that, rather than putting dates on this particular motion, we make an amendment or a new motion or whatever the heck you want to do and simply say, after we're finished with the serious problem of congestion, we deal with this next topic. Rosario may be introducing the aggregates, and then maybe we should do that after. That way, if we don't get all three, at least we'll do one well, hopefully two well, hopefully three well. But no one knows that.

**The Chair (Mr. Bas Balkissoon):** Mr. Colle.

**Mr. Mike Colle:** Again, usually the subcommittee determines the work schedule and the hearing dates—that's always the case—not the general committee. Then it's brought to the general committee. That has always been the case here: The subcommittee deals with dates.

The other thing is, this committee is basically all over the place. We did months and months of work all over the province on aggregates. We had staff do all this work. All the presenters are anxiously waiting for our report on aggregates, which was so important that we had a lot of good turnout all across the province. We spent the whole summer going across the province. It's not even on the table. We say, well, it's up to the House bosses to determine. Everything's the House bosses now. When are we going to get down to that?

Now we're supposed to be doing this thorough job on congestion, and the subcommittee agreed with the hearings, with open dates that were going to go further than the prescribed dates. Then all of a sudden, thrown at us is auto insurance with dates, times and places.

Where's the aggregate work that we're supposed to be doing and the report that people are waiting for? Then how are we going to do a thorough job on congestion here across this province if, all of a sudden, in the middle of it, we're thrown another set of committee determinations here? Anyway, I just find it a pretty scattergun approach here and not very organized.

**The Chair (Mr. Bas Balkissoon):** Mr. McNaughton?

**Mr. Monte McNaughton:** I would just add a quick comment. With all due respect to Mr. Colle, we would have been a hell of a lot further along if the House wasn't prorogued for four months. Some of this work had started a long time ago, and the prorogation actually slowed this down more than anything else. I'd like to get that on the record.

**The Chair (Mr. Bas Balkissoon):** Ms. Campbell?

**Ms. Sarah Campbell:** I just wanted to speak to Mike Colle's comments about us examining the ARA. I would say that nothing really precludes us from examining the ARA in addition to the work that we also want to examine, like gridlock and auto insurance. I do understand that there were some problems with us initiating that review at this level, at this committee. My understanding is that it needed to originate from the House, as it was initially a referral from the House. I would just ask the member to speak to the issue before us.

With regard to auto insurance, this is an Ontario-wide issue that is very relevant. It's very timely. It's something that affects the middle class. People are struggling with paying their auto insurance. It's an issue of fairness, and I think that we need to examine this as soon as possible.

**The Chair (Mr. Bas Balkissoon):** Further discussion? None? We'll take the motion. Everyone has a copy of it? The motion as moved, all in favour?

**Mr. Mike Colle:** The motion, again—let's read the motion.

**The Chair (Mr. Bas Balkissoon):** I move that the hearings on this study shall begin during the regular scheduled hours of the Standing Committee on General Government on Monday, April 15 and Wednesday, April 17, 2013.

**Mr. Mike Colle:** Point of order.

**The Chair (Mr. Bas Balkissoon):** Mr. Colle.

**Mr. Mike Colle:** Shouldn't you be dealing with my motion to defer it all to the subcommittee?

**The Chair (Mr. Bas Balkissoon):** That's why I'm just consulting with the Clerk.

**The Clerk Pro Tem (Mr. Trevor Day):** If you are amending this motion to say, "I move that hearings on this study shall be determined by"—take out everything in terms of dates and that—I just need a properly formed motion saying that you don't want to start on specific days. I can assist you in the drafting of it if we take a couple of minutes, to say that the schedule will be determined by the subcommittee—

**Mr. Mike Colle:** Yes, and that's what my motion intended.

**The Chair (Mr. Bas Balkissoon):** Then write it out so I have it correctly and I don't have any confusion.

**Mr. Mike Colle:** The thing is, we could have had this dealt with properly—

**Ms. Soo Wong:** Do you want to call a recess for this?

**Mr. Mike Colle:** Yes, let's call it. I call a 10-minute recess.

**The Chair (Mr. Bas Balkissoon):** Let's take five minutes just for you to write the motion.

*The committee recessed from 1425 to 1428.*

**The Chair (Mr. Bas Balkissoon):** We'll resume the committee. Mr. Colle, you have an amendment?

**Mr. Mike Colle:** I move an amendment to the motion put forward by the member from Kenora–Rainy River to read, "I move that the hearings on this study shall begin at a date to be determined by the subcommittee," and you strike out everything after "shall begin."

**The Chair (Mr. Bas Balkissoon):** Everybody understands the motion? Any discussion? Mr. Marchese?

**Mr. Rosario Marchese:** Just briefly, this is the full committee, and if we're putting out a motion and there's support for it, I think it's sufficient for us to go ahead.

**Mr. Mike Colle:** If I could—

**The Chair (Mr. Bas Balkissoon):** Mr. Colle.

**Mr. Mike Colle:** As I said before, the usual protocol is—why have a subcommittee, then? The subcommittee is supposed to work out the working details. We've done that all the time—dates, times, places, hearings, the work the committee is to be seized with, and that's the way it's done, not to throw a motion at us the minute we come into this room when we just haven't even begun to deal with the congestion issue. So if the congestion issue is that important and we hope to go all over the GTA—we hope to go to northern Ontario, we hope to go to Ottawa—and get a full breath of hearings and continuity on these hearings on congestion so that we can have a report—God forbid we should put together a report on congestion, and that's going to take time—then all of a sudden in the middle of this fulsome, comprehensive

review of congestion, which everybody agrees is of paramount importance across the province, we get into this area. And I've got no issue with getting into the area of auto insurance. We can look at public auto; I don't care what you look at. But let's do things right. Let's do things systematically and comprehensively.

As I said, we still haven't even broached the whole issue of aggregates that we spent months on, and now all of a sudden we're throwing in auto insurance, which, by the way, another committee has already done. Let's do congestion thoroughly and comprehensively, and then let the subcommittee determine when we'll do auto and when we'll do the aggregate report.

That's my submission.

**The Chair (Mr. Bas Balkissoon):** Okay. Everybody understand the amendment? All in favour? Against? It does not carry; it's lost.

The motion, as presented: All in favour? Against? Carried.

There's no further business. We're adjourned until April 8.

*The committee adjourned at 1431.*

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Congestion routière

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Monday 8 April 2013

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Lundi 8 avril 2013

*The committee met at 1401 in room committee room 1.*

**The Chair (Mr. Bas Balkissoon):** Good afternoon—

**Mr. Mike Colle:** Point of order.

**The Chair (Mr. Bas Balkissoon):** Let me just call the meeting to order first.

**Mr. Mike Colle:** Oh, I thought you did.

**The Chair (Mr. Bas Balkissoon):** We'll call the meeting of the Standing Committee on General Government to order on Monday, April 8, at 2 p.m.

**Mr. Colle?**

**Mr. Mike Colle:** Mr. Chairman, I have a motion that I've prepared in writing—I'll pass it out to members of the committee for you to look at during the committee proceedings—that I'd like to move at the end of the meeting.

**The Chair (Mr. Bas Balkissoon):** Okay, so we'll just circulate it and deal with it at the end.

**Ms. Campbell?**

**Ms. Sarah Campbell:** I too have a motion that I will be moving at the end of today's hearings, and I will hand it out right now as well.

## TRAFFIC CONGESTION

## MINISTRY OF TRANSPORTATION

**The Chair (Mr. Bas Balkissoon):** All right: deputies. At 2 o'clock, we have the Ministry of Transportation, Carol Layton, the deputy minister. Maybe you could introduce your guest. The agreement of the committee is 10 minutes for your presentation, and then we'll resort to questions from all sides for 15 minutes.

**Ms. Carol Layton:** Thank you, Chair. With me I have today John Lieou, who is the assistant deputy minister for our policy and planning division in the Ministry of Transportation, and I have some colleagues in the back as well.

I can begin now?

**The Chair (Mr. Bas Balkissoon):** Yes, go ahead.

**Ms. Carol Layton:** Certainly, I'd like to thank you for inviting me back before the committee. I'm pleased to have the opportunity to contribute to the very important work (a) that you're investigating and (b) that we're dealing with on the topic of congestion.

I know that some of you were on the committee when I was here last June, so it's good to be back again. Today I would like to briefly review the key points that I made when I appeared before the committee last June, then

provide an update on initiatives and investments related to congestion that we've been focused on in recent months, also provide an update on work being undertaken to address the transportation needs in northern Ontario and, finally, touch on the important role of our federal partners that they should also play in addressing sustainable infrastructure sources for transportation and transit infrastructure.

When I appeared before the committee last June, I described some of the key challenges we face in tackling congestion, including significant economic and population growth pressures on our transportation systems. We discussed major investments in municipal transit, including significant provincial funding commitments for light rail transit in Ottawa and also rapid transit investments in Waterloo region. I described investments in transit across the greater Toronto and Hamilton area, including bus rapid transit projects, the extension of the Spadina subway line to York region, and the Union Pearson Express that's going to be connecting Pearson International Airport with Union Station.

In terms of highway infrastructure, we reviewed major projects, including the 407 east extension, and continued widening along key corridors, including the expansion and rehabilitation that we're doing of Highway 401 in different areas, and the 417. We talked about the ongoing construction of the Windsor-Essex Parkway that has been renamed the Rt. Hon. Herb Gray Parkway. On the planning front, we provided an update on longer-term corridor studies that would allow us to best facilitate the efficient movement of people and goods through the Niagara, Hamilton and Halton areas.

On page 4: We all have to work from blueprints, and certainly Places to Grow back in 2006 set the parameters for sustainable land use and required that investments be aligned to deliver transit-oriented intensification. Population and employment growth in the greater Toronto and Hamilton area and other urban areas require significant transit and transportation investments. However, looking back over a few decades, these investments have not always been provided consistently, and therefore we have to continue to address this need. We know that many communities lack the capacity to provide sustained transit and transportation services and investments, and may not be well positioned to address even the demographic challenges that themselves are going to require being addressed in transit, such as the aging of our population as they are less able to drive.

The greater Toronto and Hamilton area is facing mobility challenges—congestion, essentially. Limited transportation options result in longer commute times, which impact the economy overall, business efficiency and the quality of life of our travelling public.

On page 5—in terms of funding programs to provide basic support, government actions to date: More than \$460 million in transit vehicle funding provided between 2003 and 2009 reduced the average age of buses from 11.4 years to 5.5 years; Ontario's gas tax program provides two cents per litre in funding for municipal transit across the province—more than \$2.2 billion since 2004. In 2011-12 alone, that meant \$317 million provided to 96 transit systems in 127 communities across the province. These communities represent about 88% of Ontario's population.

In terms of strategic investment as well, there have certainly been great investments in the city of Toronto and the TTC—about \$4 billion invested since 2003. The province has committed \$600 million to Ottawa's light rail transit project and \$300 million to the Waterloo rapid transit project—and of course, in 2006, the creation of Metrolinx to plan and implement a regional transportation plan for the greater Toronto and Hamilton area.

I know that later on this afternoon you're going to have Bruce McCuaig here, so I won't spend too much time on the Big Move, other than to indicate that the Big Move is the regional transportation plan provided in 2008 through Metrolinx. Implementation of the Big Move is intended to support economic competitiveness and improve the quality of life by providing more transportation options, reducing commute times, providing sustainable growth, and reducing transportation-related greenhouse gas emissions. Several Big Move projects are under way, including the four Toronto LRT projects, the York region Viva, the Union Pearson Express, the Toronto York-Spadina subway extension and the Presto fare card to improve regional integration for the region itself.

Metrolinx has identified an updated next wave of priority projects from its Big Move as well as a refined list of investment tools which could be used to support the implementation of these projects—all of that for further consideration. Metrolinx will provide its final investment strategy to the province and the GTA heads of council by June 1 of this year. Upon receipt of the investment strategy, the province will consider Metrolinx's recommendations and move forward as appropriate, with the outcomes of the province's actions guided by the right investments, the right tools and certainly the right supporting policies.

There are other initiatives, though, that I'd also like to speak about in terms of addressing congestion; for example, cycling. The ministry is moving forward with a cycling strategy, released a draft cycling strategy, and has been conducting consultations on that, reviewing the many comments that have been received from the public and from stakeholder groups as well as from municipalities.

I mentioned earlier that the ministry is also continuing to rehab and widen Highway 401, one of the busiest highways in North America. This is across the province, literally from Quebec to the Detroit border—something like \$2 billion to make sure that that very important network and very important connection point is rehabilitated and, also in the case of interchanges and some bridges, to widen them where we can.

We're also working to develop a multimodal goods movement framework that will provide a long-term vision for creating a well-organized transportation system able to adapt to changing market patterns. We've received a great deal of input from the public, municipalities and business stakeholders, and are currently working to finalize the framework.

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We know that reducing collisions on our roads means fewer delays. Our most recent statistics show that Ontario continues to have one of the lowest road fatality rates on the continent. In fact, the province has ranked first or second in North America for more than 10 years now and has made significant progress in saving lives and reducing injuries. This is a fact not lost on Ontario's Chief Medical Officer of Health, Dr. Arlene King, who in her 2010 annual report referred to Ontario's road safety record as one of the great health public policy successes in the province.

We also work to maximize the efficiency of existing infrastructure; that's on page 8. To meet the transportation challenges we face today and in the coming years, the ministry must think and act in innovative ways to get the most out of our infrastructure. Slide 8 speaks to some of the innovative approaches that we've been taking.

Of course, first and foremost is the effective management of the asset that we already have to make sure that we're optimizing that asset and make sure that it's always in good condition.

We're using state-of-the-art rapid bridge replacement technology to mitigate congestion. Last fall, we replaced the Highway 401 off-road bridge near Yorkdale Shopping Centre in just 53 hours; the traditional method would have taken up to a year. MTO has also used this technology in Ottawa and in Hamilton, and we have two more projects planned in Ottawa later this summer.

In terms of using technology to get useful travel information to motorists, our Compass system and our 511 Traveller's Road Information Portal provide easy access to traffic conditions that help all of us make decisions about our traffic, including how to avoid congested routes.

The government has invested in HOV lanes—high-occupancy-vehicle lanes—on 400-series highways to improve the efficiency of our highways. To date, Ontario has constructed 83 lane-kilometres of HOV lanes on the provincial highway network in the GTA and Ottawa. MTO also provides 82 carpool parking lots near dozens of highway interchanges throughout Ontario, 17 of which are served by public transit—and a good number of those, of course, in the GTA.

**The Chair (Mr. Bas Balkissoon):** You have one minute.

**Ms. Carol Layton:** Thank you very much.

Turning quickly to northern Ontario, I'd like to just reference there that we certainly have invested about \$524 million to invest and repair northern highways. I could list a number of them, but I'll maybe do that later. We're also working with MTO and with the Ministry of Northern Development and Mines, and across government, quite frankly, with the Ministry of Infrastructure to implement a growth plan for northern Ontario. The MTO role in that is the development of a northern Ontario multimodal transportation strategy. We're currently working on a number of studies to determine the unique needs of northern Ontario, and we can speak to that in any of the Q&As.

Finally, the federal government certainly must play its part. In Ontario's speech from the throne, the government said it would reach out to provincial and territorial colleagues to advocate for a national strategy on infrastructure and transit. The federal government certainly has provided funding in many different projects around the province, although no sustainable ongoing source of federal funding that's unique to transit.

In meetings that I've had with my federal, provincial and territorial colleagues, I certainly have appreciated the distinct needs of each jurisdiction—the regions that they have, the territories that we're dealing with—and I certainly look forward to supporting the Minister of Transportation on this initiative. And all of that to say that I'd like to thank the committee for the opportunity to make some brief remarks, and I welcome any questions.

**The Chair (Mr. Bas Balkissoon):** Thank you. First to question will be the PCs, Mr. O'Toole.

**Mr. John O'Toole:** Thank you very much, Deputy. I really appreciate your input today. Quite honestly, it's a shame that we don't have more time for you because you're obviously the lead in this whole discussion about gridlock and all the options and choices in policy that need to be made from transit, looking at Metrolinx and further commitments to capital—a huge, huge challenge. In fact, it's enormous. In fact, if you look at the media, even today, crowding out everything is the new tools discussion; I'm sure you are paying attention to that, and we'll get a chance to talk to Metrolinx about that.

But to just make a couple of things on a local level, I represent the riding of Durham and have for about 18 years. For part of that I was a regional councillor and a councillor. And I worked for General Motors. So transit is kind of—I even took courses in transportation logistics and stuff like that. But anyway, I'm concerned about the number of bad decisions that have been made on the east decision of connecting Durham to the GTA. It's shameful. I don't blame you personally—these are mostly political. A good example more recently is the 407—

*Interjection.*

**Mr. John O'Toole:** I have time here. Thank you.

The 407 going east—what a shameful decision to cancel that. No, I'm not even trying to be political. Then

they made the decision to go to Simcoe Street. Simcoe Street does not go eastbound on the 401; it doesn't go eastbound. You can't get there from there. The next thing is, they move it to Harmony Road. That's a residential—I know it's a regional, arterial road, but I phoned all the people who I know there and told them to move or sell immediately. It's tragic what they've done. It's an urban street.

Now, that's bad. I told them, and I'm going to give you—on the paper, you could write this down perhaps: Holt Road would be where you should take it to. That's going to be where the refurbishment of the Darlington nuclear plant—it's a transmission corridor. I told the people at those PICs, public information centres, that's where it should be. I know; I live there. I know all about it. It should be on Holt Road. Save yourself a lot of grief and take it off. But how they're treating the farmers on the route there, on the expropriation of the land, is tragic. But anyway, we'll stop there.

Metrolinx: They've promised the GO train to Bowmanville for the last 25 years. I take GO. I have a Presto card; I use it every day. There's no parking at the GO station in Oshawa, the terminus—at 7 o'clock, it's done. Then you get about a \$300 ticket.

Now, this all makes sense—through you, Chair—of my lack of what I said at the beginning; I don't blame you or your assistant deputy. But now I've given them another suggestion. You should write this down: Do not bother taking the GO train—and I've talked to Metrolinx, to Bruce, recently on this, and Roger Anderson and all the mayors—leave the GO train on the south side of the 401. Take it straight to Port Hope, because right now, my option to GO is to take the VIA. I can be from Oshawa to Union Station in 29 minutes for the theatre, for the ball game, for work—29 minutes. It's already running, I believe, from Kingston.

You want to solve the parking problem at the GO station? I did three surveys, all my own private surveys, because I talk to people. All the people at the parking are from Port Hope, Cobourg, Courtice, Bowmanville, the city of Kawartha Lakes and Peterborough. That's why it's full. It's the end of the line, so everybody who's coming from somewhere else—just take it to Courtice Road, seriously. There's vacant land there, right beside a sewage treatment plant. It's very well done, I should say. It's not some kind of eyesore.

There are just two practical ideas. We have basically been ignored. Now I understand that Metrolinx is purchasing the land to bring the GO train to the north side of the 401. We're being told that until they get the capital to build this bridge and buy the land—it's right by Durham College, right on the 401 there. They're assembling the land.

The Audi dealer called me, and they're taking his land, where he was going to expand, because he has an RV business.

**The Chair (Mr. Bas Balkissoon):** You have 30 seconds left.

**Mr. John O'Toole:** Twenty seconds left. I am so disappointed—not in you or Bob Chiarelli. I understand

that. No one's paying attention to Durham. I put it on the table in a public forum because I'll be sending this out—

*Interjection.*

**Mr. John O'Toole:** No, no. It's perhaps an ineffective member. Has somebody not been listening to me? I've been saying it for 20 years, but here's what happens: The bottom line is they have their minds made up, and that's what they're doing. The shoe doesn't fit.

**The Chair (Mr. Bas Balkissoon):** Okay, gentlemen. I have to—

**Mr. John O'Toole:** Thanks for your presentation. I'll keep a copy of it.

**Ms. Carol Layton:** Thank you.

**The Chair (Mr. Bas Balkissoon):** The NDP? Mr. Marchese?

**Mr. Rosario Marchese:** Thank you, Chair. Welcome, Ms. Layton. I've got a couple of questions. We were waiting for a new cycling strategy for a long time, since 2010, and then we finally got a document released, and it was released for public feedback on January 29, 2013, which is good. I'm wondering, when do you think it will be completed?

**Ms. Carol Layton:** I missed the very first part of your question. So you were waiting—

**Mr. Rosario Marchese:** We were waiting for a cycling strategy for a long time—

**Ms. Carol Layton:** Oh, the cycling strategy. Okay. Sorry, I missed that part.

**Mr. Rosario Marchese:** That's okay.

**Ms. Carol Layton:** So on the cycling strategy, we did release the draft, as you know, and have had, even in the last few weeks—

**Mr. Rosario Marchese:** When will it be completed, do you think?

**Ms. Carol Layton:** I can't give you an exact date on its completion because, of course, Minister Murray himself talks about how keen he is as a cyclist, so he's bringing his perspective as well into the work that we're doing.

**Mr. Rosario Marchese:** That's good.

**Ms. Carol Layton:** But, of course, we have to respond to the coroner report very soon, and I think you'll see some of our strategy, in a sense, in that context, but certainly the concept of a provincial network—

**Mr. Rosario Marchese:** But we don't know. We don't know when—

**Ms. Carol Layton:** But I don't have the exact date.

**Mr. Rosario Marchese:** Very good.

Will there be funding attached for cycling infrastructure? Do you know?

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**Ms. Carol Layton:** In the draft cycling strategy, Minister Chiarelli, when he released it, did indicate that in the MIII, municipal infrastructure investment initiative, cycling was added as a valid initiative under that, and so, based on municipalities in terms of what they would like to submit as a priority, they can certainly submit for cycling initiatives in that context.

But the other point that I would make again—

**Mr. Rosario Marchese:** No, no. I have so many questions.

**Ms. Carol Layton:** Okay.

**Mr. Rosario Marchese:** The question was, do you think there will be money attached for infrastructure for cycling?

**Ms. Carol Layton:** The only money I can speak to right now is the money that's sitting right now in the MIII strategy. That's the only money that's right now attached to cycling.

The other area—I just want to make sure that you appreciate this—is, as we look at highway rehabilitation and as we look at highway expansions, including, for example, the 407 east extension, we also add cycling capabilities to those sorts of structures as well. As we roll out more highway expansion projects and rehab throughout the province and in the north, we also look at cycling in that context. So I can't give you an exact figure. We just make sure we have that lens always on cycling.

**Mr. Rosario Marchese:** Okay. I'm glad to hear that. I just get so nervous because I have so many questions for you, and if the answers get too long or they digress, then I can't get—

**Ms. Carol Layton:** If you can talk faster, I can talk faster.

**Mr. Rosario Marchese:** So the Public Vehicles Act is 80 years old. It creates unnecessary barriers, so people say, to seamless transit, van pooling, flexible and customer-oriented transit service: as an example, municipal buses that can't pick up passengers outside of the jurisdiction etc. Will the Public Vehicles Act be updated to focus on transit users and support seamless and convenient transit use?

**Ms. Carol Layton:** I think it's fair to say that we're looking at all of our legislation—the Highway Traffic Act, the Public Vehicles Act—all within the context of transit and transportation.

**Mr. Rosario Marchese:** I understand you're looking at it. Looking at it means, "We'll be looking at it." It's like it could take 100 years; it could take 50. Do you have a sense of when we might look at it?

**Ms. Carol Layton:** Yes. It's a priority. Anything that's addressing and supporting congestion and transit is a priority, and so that's work that we have under way.

**Mr. Rosario Marchese:** Okay. The Highway Traffic Act is outdated and a barrier to sustainable mobility. Changes are needed to encourage cycling safety, cycling infrastructure and complete streets. When will a comprehensive review of the Highway Traffic Act happen, to make it supportive of cyclists and pedestrians?

**Ms. Carol Layton:** The Highway Traffic Act is a large piece of legislation, and we are reviewing it—rather than a one-off comprehensive review, it is constantly under review, and it's under review in the same context of releasing what would be that final cycling strategy. That's work that is, again, under way by the road user safety division folks that we have, and that's work that's under way right now. I cannot give you a date as to exactly—you know, the nature of the changes. Again, as

we work with a relatively new minister, we're working our way through that.

**Mr. Rosario Marchese:** Improving the proximity between where people work and where people live is key to reducing congestion, and I think we all agree to that.

**Ms. Carol Layton:** Yes.

**Mr. Rosario Marchese:** The government is reviewing the provincial policy statement.

**The Chair (Mr. Bas Balkissoon):** You have 30 seconds.

**Mr. Rosario Marchese:** When will this review be completed, and how will it encourage smart developments where people live close to where they work?

**Ms. Carol Layton:** I'd have to defer to my colleague. The provincial policy statement is under the Ministry of Municipal Affairs and Housing. It's a different ministry, and I don't know exactly the cycle of that. I know there's a number of major pieces of work coming up for review. One is the growth plan itself. The other one is the provincial policy statement, and I believe that's coming up in the next year or two, but I would have to defer to my colleague. There's an actual schedule for that and I just don't have it at the ready.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. We'll now move to the government. Mr. Flynn.

**Mr. Kevin Daniel Flynn:** Thank you, Mr. Chair, and thank you, Carol and John, for your presentation.

Towards the end of the presentation, you seemed to run out of time a little bit. Would you like to use any of this time to expand on page 10? That was the one I think you had to kind of rush through to get in under the wire. Is there anything you'd want to expand on?

**Ms. Carol Layton:** Yes. Page 10 certainly dealt with the role of the federal government in terms of supporting it. It's fair to say that the federal government has on a project-by-project basis been there in terms of providing support for various transportation-transit projects, but not on a sustained basis. We still do not have a commitment, and even in the most recent budget there was no commitment, for dedicated money for transit. We'll have to wait to see in 2014-15, as they roll out the \$47 billion over 10 years, I think it was, whether there will be something quite specifically for transit.

But certainly Minister Murray and Premier Wynne have both spoken about the need to speak with their counterparts in terms of impressing on them the need for a dedicated infrastructure and transit strategy at a national level.

**Mr. Kevin Daniel Flynn:** Wonderful. Thank you very much for that answer.

I drive on the highways; I come from the other direction than the member from Durham. I think I'm not the only commuter who's driving in, thinking, "I wonder if these trucks have to be on the highway right now." We seem to be sharing the highway now on a daily basis with the transportation of goods. There's a lot of good in that; that means jobs; that means employment; that means expansion of the economy. So, pursuant to, we're uncomplaining about it.

Are there any innovative techniques that we can use, or any that are being used perhaps, in a transportation demand perspective, or from that perspective, that would allow for an evening-out of the capacity of the highway transportation system we have? Obviously, at rush hour it's really overtaxed, and at 3 o'clock in the morning, it's empty. Is there anything we're doing from a trucking perspective to alleviate any of those concerns?

**Ms. Carol Layton:** Yes. I'm going to talk about long combination vehicles, but the first thing I'd like to reference is that we also make sure that the trucks that are travelling are safe. That's really, really important as well. We have about 300 or so commercial truck inspectors, and truck stations where they're pulled over. I've actually been under those trucks, looking at the sort of things that they inspect.

But the one initiative that's important is certainly the long combination vehicle one, where you have a single truck that can carry twice the capacity of a tractor-trailer but is certainly restricted in terms of at the beginning and end of long weekends, restricted in terms of not driving during commute times, and restricted also in terms of not driving during the winter months, and also very specially trained drivers. We've had a very successful pilot or, in a sense, launch to the long combination vehicle program.

As a result of restrictions like, for example, not being able to drive during commute times, those firms, the companies, the shippers themselves have actually moved to evening and through-the-night trucking, which is really good, certainly to address congestion but also, they find, for the efficient movement of their own vehicles, it's better for them as well.

**Mr. Kevin Daniel Flynn:** Thank you. You mentioned something on road safety. You said that obviously it's something we should be proud of in the province of Ontario. We're either first or we're up there. Accidents do happen from time to time. Are we making any progress in cleaning up those accidents more quickly? Obviously, when I'm sitting in traffic behind a fender-bender, you wonder why it takes three hours to get the cars off the road. Any work on that?

**Ms. Carol Layton:** Yes, there is work on that. Certainly, the public awareness of that, working with the different police services as well as the OPP on that so people do understand that for certain collisions they don't have to wait there. But also there's work under way, again with the OPP, around major collisions and how we can be more efficient in terms of getting those vehicles—obviously, you have to do the police investigation, but then you want to work to move things, as soon as you can, off the highway.

The other point I'd make is actually through the area maintenance contracts that we have, that if there is any sort of damage to the roadway, or possibly to certain supporting structures and all of that, because we have the province under area maintenance contracts, we can quickly move them in and they can do the work that they do, as opposed to a longer process, and do whatever repair work is needed.

**Mr. Kevin Daniel Flynn:** Great. Thank you very much for coming today. Thank you, Chair.

**Ms. Carol Layton:** Thank you.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. Thank you for taking the time to be with us.

**Ms. Carol Layton:** I appreciate your time. Thank you.

#### TORONTO REGION BOARD OF TRADE

**The Chair (Mr. Bas Balkissoon):** Our next presenter is the Toronto board of trade: Carol Wilding and Juan Gomez, if you could come forward.

To the members, I understand our next presenter—the number of copies of his presentation is not readily available to all of you, so we'll provide one to each caucus. The Clerk will make sure that the rest of you get another copy after the meeting or sometime later.

Okay. Mr. Gomez?

**Mr. Juan Gomez:** Yes.

**The Chair (Mr. Bas Balkissoon):** You have 10 minutes for your presentation, and then we have five minutes for questions from each one of the various parties.

**Mr. Juan Gomez:** Thank you. I'm just speaking on behalf of Carol Wilding. My name is Juan Gomez. I'm director of policy for the Toronto Region Board of Trade. The board is pleased to have the opportunity to present the views of our membership on the critical issue of traffic congestion, which directly impacts the people, businesses and environment of Ontario's and Canada's largest urban region.

As you may know, the board turned an important corner on the debate about how to pay for our regional transportation plan, from the broad to the specific.

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My remarks today will focus on the recommendations in our new report, *A Green Light to Moving the Toronto Region: Paying for Public Transportation Expansion*, which was released on March 18 and is also our formal submission to the committee.

Our message to the committee is this: We can no longer defer the tough decisions on how to address our region's lack of mobility. In today's ultra-competitive global economy, our competitors are investing in infrastructure that is helping them attract investment, jobs and skilled workers. We, too, must act or fall behind. We can't continue to turn our back on solutions. We must implement dedicated revenue tools to improve our mobility and our economic competitiveness.

In survey after survey, the board's 250,000 business professionals and 10,000 members across the Toronto region have been emphatic: Traffic gridlock and inadequate transportation infrastructure is the number one public policy concern facing the Toronto region.

Whether we're talking about a company's goods or services, or just getting people to work on time, a lack of mobility is negatively impacting bottom lines. It's also taking a huge financial toll on our region's economy. As

the board has reported often, our region is losing approximately \$6 billion a year in productivity. That loss is headed to \$15 billion by 2031. This is represented in lost jobs, lost sales, less investment and greater costs, and it's been pointed out by many organizations, including the OECD, PwC and Colliers International; they have all identified congestion as the Achilles heel of our region's economy.

Of course, it wasn't always this way. In a 30-year period, from 1950 to 1980, our population grew by nearly two million and our region built nearly 400 kilometres of commuter rail track. But over the next 30 years, the construction of new track slowed to a crawl, and so did our mobility. While our population nearly doubled to six million people, during that time only an additional 43 kilometres of track were built. Our population effectively increased 100% and we only built 10% more track—startling, really. It's no coincidence as well that car trips grew by nearly 60% in that period.

Today, we have approximately 100,000 people a year moving into the Toronto region. This is having an overwhelming impact on the amount of time we spend commuting. Our average round trip is longer than most of our competitors—longer than Boston and Los Angeles; longer than Vancouver, Montreal and Calgary.

As the decades passed, so too did many ambitious plans from provincial and municipal governments of all political stripes: Network 2011, Let's Move, the rapid transportation program and Transit City, to name a few. But here's what we learned: It's easy to draw lines on a map. What's proven hard is the ability to pay for them both in strong and weak economies. Delay and cancellation of these grand plans has happened more often than not. We can't let history repeat itself.

Today, we have the \$50-billion Metrolinx regional transportation plan, the Big Move. It will mean more rail for GO and local transit operators, better highways to move goods and people efficiently, and more bike lanes.

We know tough decisions will have to be made. Simply looking to government to tighten belts and consider alternative financing methods won't be enough. Land value capture, P3s and more federal dollars will also have to be part of the equation. However, these are merely table stakes. All are necessary, but they won't come close to raising the revenue we need.

We are thus putting forward a suite of four revenue tools. They must be dedicated to funding the Big Move. They must be applied region-wide, to provide region-wide solutions to our region-wide challenges. These have been advanced through much public research, stakeholder consultation and economic analysis.

During the past three years, the board has consulted with its members, transportation experts and leaders in business, academia and government. We have worked with our board of directors and committees representing a wide range of industries and stakeholder organizations. We have also conducted focus groups, reviewed extensive public polling and surveyed our own members.

Building on this consultation and research, we are putting forward four revenue tools that we believe are

balanced, fair, economically responsible and should be given serious consideration. They are fair: Everybody contributes and everybody benefits—drivers, commuters, business and the public. They're balanced: We are recommending a mix of tools to reduce the risks in market fluctuations. And they're economically responsible: The economic effects are manageable. This is what the evidence that we've undertaken tells us.

As I've already said, we must act. The cost of doing nothing is much more expensive. Therefore, to support transport infrastructure expansion and our economy, we are recommending: (1) a regional sales tax; (2) a parking space levy; (3) a regional fuel tax; and (4) tolls on high-occupancy lanes.

Combined, these tools can raise much more than the \$2 billion we need annually to support the Big Move. The exact dollar amount or percentage for each revenue tool would of course need to be negotiated by the province, the municipalities and a variety of other stakeholders. Collecting this additional revenue, we must stress, must be transparent and accountable and must be dedicated to the Big Move. We can't say dedicated enough. It is crucial for the public to measure progress against the collection of these additional funds.

We recognize this is not an absolutist position. No new funding tool is without certain implementation challenges and, of course, critics. As this debate continues, greater public support may be found for a different combination than what we've put forward. But what is clear is that the debate has to be about the need for new revenue tools and the discussion about which ones are most appropriate to fund the needed expansion that we need to invest in.

To succeed, all of us will have to contribute, all levels of government, the public and the private sector. Talking about our congestion has become a regional obsession, so too has avoiding real solutions.

On June 1, Metrolinx is to hand to the provincial and municipal governments a financing strategy outlining how it proposes to raise the billions of dollars required for regional transit expansion. As we state in our discussion paper, we urge elected officials at all levels of government to rise to the occasion of this watershed moment and constructively work towards meeting this deadline. By doing so, they can honour the legacy of their predecessors, who, many decades ago, supported the kind of visionary long-term transportation investments which to this day we benefit from as a region, province and country.

Thank you. I'll gladly take questions.

**The Chair (Mr. Bas Balkissoon):** Thank you. We'll start this round of questioning with the third party. Mr. Marchese.

**Mr. Rosario Marchese:** Thank you, Juan. First of all, I want to congratulate the Toronto board of trade for being one of the leaders to talk about congestion and how that affects us all, not just people but business as well. You guys have been at the forefront, and I appreciate it. In short order, all three political parties are going to have

to announce what they're going to do by way of the revenue tools. But I've got a couple of questions.

**Mr. Juan Gomez:** Sure.

**Mr. Rosario Marchese:** There's been some discussion about the \$6-billion problem in terms of how that affects productivity and how that affects businesses. Can you speak a bit about the cost to businesses incurred by congestion and gridlock?

**Mr. Juan Gomez:** Sure. That \$6-billion figure covers two types of economic costs. Approximately half of that is costs that impact directly workers and commuting. It's increased gas costs and also the costs that are impacted through the environment. Excess congestion obviously causes increased emissions. That factors in the increased health costs, which are quite substantial, associated with that.

The second component is what covers direct impact on businesses. This is productivity-related impacts. So it's the cost around movement of goods, increased cost and delays that are impacted in the supply chain. A lot of the impacts are around getting goods to market in a timely fashion. There are considerable delays; that impacts supplies. In the economic modelling where that figure came from, it also impacts the ability of companies to have a broader market for their goods.

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**Mr. Rosario Marchese:** Got it. Great, thank you. Another part of the problem—and it has been a concern of mine because for the last 20 years or so we've been cutting corporate taxes to the tune, cumulatively, of about \$17 billion.

Another big concern of mine, which I stated two years back—and it has been picked up by Mr. Flaherty nationally and by the Bank of Canada, which is great—is that there is about \$560 billion of corporate money that's simply parked and not being spent, simply because they're worried about how to spend it and don't want their investors to be hurt.

The question I have for you: Do you think the reduction in corporate and business taxes over that time has played a role in the reduction of government capacity to invest in transit?

**Mr. Juan Gomez:** I don't think we can necessarily draw a direct connection. If you look at the whole issue of taxation around corporate taxes, just focusing in on the research we've done looking at how different jurisdictions fund public transportation through dedicated revenue streams, that particular type of tax is not generally used as an instrument for paying for public transit.

**Mr. Rosario Marchese:** The fact that others don't use it: Do you think that's good or bad?

**Mr. Juan Gomez:** Based on a lot of the research we've looked at and other research, excessive corporate income taxes tend to be a regressive tax. If you look at how that tax gets translated, oftentimes it's through lower wages for workers, increased prices—so there are different ways that business is passing it on.

I think the other point to keep in mind in terms of the tax burden for businesses is that there's a provincial

corporate tax element and there's a federal corporate tax element as well. When you look at the combined corporate tax rate for most Canadian firms, it's about 25% or 26%, which is about the median OECD. So we're not the highest, but we're not the lowest.

**Mr. Rosario Marchese:** Quick question: Apart from advocating for new revenue tools to support expansion of rapid transit over the next 25 years, does the board of trade see shorter-term, lower-cost actions that the government or businesses could take to reduce congestion—smarter planning policies, employee trip reduction programs, incentives to those who take transit?

**Mr. Juan Gomez:** Yes. In our report—

**The Chair (Mr. Bas Balkissoon):** You have 30 seconds.

**Mr. Juan Gomez:** Yes—we've identified some of those elements that are supported.

**Mr. Rosario Marchese:** But we don't hear that too often.

**Mr. Juan Gomez:** That's something that will hopefully come out, through what we're doing now through our transportation campaign. But in our report, we've specified the need to address the planning element as well in the congestion equation.

**Mr. Rosario Marchese:** Thanks very much, Juan.

**The Chair (Mr. Bas Balkissoon):** Thank you. The government side: Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you, Mr. Gomez, for coming in and sharing with us the Toronto board of trade's perspective.

I noticed at the beginning—and I just sort of perused this—that you identified Highway 401 through to the US transportation system as the busiest highway in North America, and I agree with you; I concur. What I found fascinating, however, was that when you looked at your revenue tools—and you have identified a regional sales tax, a parking levy, a regional fuel tax and high-occupancy toll lanes. Part of me speaks to the issue of who travels on those roads. Quite frankly, the 401 is what I call a travel-through road, from Quebec and the Maritimes to the United States—and they're not delivering any goods on their way; they're just using our highway.

The last time I received the estimates—and Bruce is here; maybe he can confirm—it was about 16 years just from Mississauga to Durham to start to fix the 401, and when you finish in 16 years, you start all over again. Now, of course, we have the double semi-trailers and we have huge traffic that actually impacts that road significantly, and yet none of those people live in Ontario and none of them would be impacted by any of your recommended tools, with the exception maybe of the fuel tax, because they're not stopping here; they don't live here; they're not delivering anything here. I haven't read your full report, but that hasn't been addressed; yet you dismiss road tolls for the reason that they would be too politically—I think you identified in your report that road tolls would have strong political opposition both at the municipal and provincial government levels and would make mandatory implementation of such a tool a dim prospect in the future.

My question to you is: Had you considered the fact of who uses these roads? And if you're looking at user pay, was there a discussion around how you're going to deal with the fact that a significant portion—and we can all tell by those licence plates who is using our roads and, again, not putting the dollars into the infrastructure to support it through a tax base.

**Mr. Juan Gomez:** Yes. With respect to road tolls, what we heard a lot in our consultation was that there were two factors in addition to some of the political sensitivities. There were also the substantial implementation costs and start-up costs that would be associated with setting up a tolling system on our 400-series highways, including Highway 401. That would take—what we heard in terms of estimates to get that up and running—maybe four to five years.

There was also the concern—you point out that there are a lot of out-of-province, out-of-jurisdiction drivers—that it's still an important commuting corridor for people who live within the GTHA, and the concern was that there wouldn't be adequate public transportation options available at this time. So, from our perspective, we've seen tolls as perhaps sort of longer term. Short-to-medium term, I think we obviously need to get the revenue sources to pay for the investments in short order.

This is something where, over time, there are going to be fluctuations in revenue totals. For example, the fuel tax: With the increased efficiency of automobiles, that's a revenue source that may decline over time, and perhaps at a future date road tolls may be considered. But the message we got from a lot of our members in our consultations was that right now imposing road tolls without viable public transportation options just wasn't on.

**Mrs. Donna H. Cansfield:** I wasn't actually thinking of road tolls for cars; I was thinking for trucks. If we have 450,000 vehicles that travel across the 401 on a daily basis, I would suspect that about 100,000 to 120,000 of those are out-of-province trucks. To not access that revenue, because they impact our roads, seems to be something that we are missing and should be looking at in terms of finding some support. Why should Ontarians pick up the cost just because we happen to be a corridor between, let's say, Quebec, the Maritimes and the United States?

So I respectfully request that maybe you consider that in your deliberations when you go back, to look at that impact—what it would have in terms of a revenue toll. I'm not suggesting tolls per se, because you have other options here, but maybe something that can be done around the trucks.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. We'll now move to the opposition. Mr. MacLaren.

**Mr. Jack MacLaren:** Mr. Gomez, it seems to be that we all know clearly that Toronto is way behind in transit and it would take, perhaps, \$35 billion to \$50 billion to catch up to where we'd like to be, so we could be an efficient, effective city. And we have, unfortunately, a government that's in massive debt and high unemployment, so the government's not really in a position to be spending the kind of monies that need to be spent.

In that context, would you comment or say a few words to the idea—or what would you think of the concept—of having the private sector design, build, pay for, operate, maintain and, of course, charge tolls for the transit we need, being subways, GO trains and 400-series highways?

**Mr. Juan Gomez:** As we said in our report, we're fully supportive of public-private partnerships where there is a business model that can bring projects to market earlier and efficiently. There are obviously a lot of good national and international examples of those types of arrangements where you have both private build and private operation.

Obviously, when you're dealing with public transit, virtually every jurisdiction includes a significant public component, and that includes the dedicated revenue sources we're talking about. But absolutely, all those types of options need to be on the table to look at ways we can deliver existing systems and future systems in an efficient fashion.

**Mr. Jack MacLaren:** Thank you.

**The Chair (Mr. Bas Balkissoon):** Mr. O'Toole.

**Mr. John O'Toole:** The real issue I want to find out in the work you've done—and I commend what the Toronto board of trade has done—could you provide for us any polling data you've done and who you've done the polling data with? That would be the first ask. I'd like that recorded, and perhaps you could table it with the Clerk of the Committee.

**1450**

We would like to have some idea, because there is going to be a lot of attention paid to your four points that you've made on new revenue tools—carefully chosen words—and also the taxation options that were on the table. I think my colleague asked about other funding mechanisms—the private sector, too, which you've clarified as well. My colleague Mr. Milligan may have a question or two, but that's really the most important part: how solid the data is, what groups were consulted with.

**Mr. Juan Gomez:** Okay. In terms of polling, I can provide the committee later with some of the earlier polling we've done. It has pointed to an increased—first, what the polling has demonstrated is that there is a heightened concern and awareness about the regional gridlock transportation issue. What it points to is, both in the 416 and 905, it is the number one issue of local concern.

Secondly, we've also seen in some of the polling an increased acceptance of potential for revenue tools, but what has to be stressed is that they must be dedicated—so, when the question is phrased, that it's openly transparent and accountable that that's the purpose it's being dedicated to. That's really what is the critical issue.

In terms of our membership, as I say, we've got over 10,000 members and 250,000 individual professional members. Approximately 60% of that membership were supportive of dedicated revenue tools. Since we've released our specific four, we haven't done subsequent polling ourselves. Obviously there's been some polling

that has been done by local media sources recently, but ourselves, we haven't done a specific poll on that.

**Mr. Rob E. Milligan:** Just to follow up, if I may—and I want to thank you for coming here, Mr. Gomez, and sharing your information and your insight—as I do traverse the 401 on a regular basis heading eastward and, of course, back here to Queen's Park, it is noted that traffic is on the increase. Obviously, it is something that we need to address.

Now, the polling that you have done—how recent is that polling? Is it updated?

**Mr. Juan Gomez:** Yes, our most recent poll that we did was late 2012; October 2012 was the latest that we've done.

**Mr. Rob E. Milligan:** Okay.

**The Chair (Mr. Bas Balkissoon):** Thank you very much, and thank you for taking the time to be with us.

**Mr. Juan Gomez:** Thank you.

## METROLINX

**The Chair (Mr. Bas Balkissoon):** Our next presenter is Metrolinx, Mr. Bruce McCuaig. You have 10 minutes for your presentation, and then we'll move to questions from all parties, five minutes each. You can start.

**Mr. Bruce McCuaig:** Thank you very much, and thank you for the opportunity to present before the standing committee today. A copy of my presentation is being circulated around the room, and I'll just go through this very quickly so that we have an opportunity for conversation.

On slide 2, I'd just like to emphasize that congestion, as we all know, is a significant issue impacting the regional economy in the greater Toronto and Hamilton area, also impacting our quality of life and the environment. Our mission at Metrolinx is to transform the region's transit and transportation system by doing three things. Those three things include increasing the capacity of our transportation system, improving its integration across the boundaries, and enhancing, of course, the service levels that are available to the public.

On slide number 3, there's some information on the cost of congestion to the economy here in the greater Toronto and Hamilton area. You've heard from previous speakers about the \$6-billion annual cost of congestion, and generally speaking, 50% of that cost is attributed to individuals—the time that we all consume in terms of our trip to work, the cost of commuting and the cost to the environment. The other 50% is the cost to the economy specifically related to the impact of reduced reliability and the increased level of congestion in terms of getting goods to market.

By 2031, if we continue to grow in the way in which we've grown over the past 20 years and if we do not significantly expand our transportation and transit systems, that \$6-billion annual figure will grow to about \$15 billion—by 2031. Clearly, from an economic perspective, we have a clear case for action in terms of dealing with this level of congestion.

On the following slide, in terms of the environment, obviously congestion means that we impact our quality of the air environment, the emissions of greenhouse gases to the environment. Right now, excess congestion is contributing about 15% of regional greenhouse gas emissions to the environment. Clearly, by the extent that we can reduce congestion, we can significantly reduce the amount of greenhouse gas emissions that occur in the greater Toronto and Hamilton area, as well as other air quality benefits that we all experience in this region.

On the following slide is just a small indicator of some of the social impacts of congestion. You may have heard the figure that our average commute time on a daily basis currently is about 82 minutes per day. That's among the longest commuting times in North America. Again, if our population economy continues to grow over the next 20 to 25 years the way it has over the past 20 to 25 years, and we do not build the infrastructure that we require, that 82-minute average commute time will increase to about 109 minutes each and every day. That's the result of 100,000 people each and every year coming into the greater Toronto and Hamilton area to make it home.

We do have a solution, on slide number 6: It's the Big Move. Again, previous people have spoken about this. I really just emphasize four key points: One is, our objective is to increase the accessibility of rapid transit from the current about 42% in terms of the proximity of people to rapid transit to 81% through the expansion of the transit system while accommodating two million more people, and therefore not only avoiding the growth from our 82-minute average commuting time to 109 minutes, but actually seeing if we can reduce that average daily commute time. We do that by tripling the length of rapid transit across the greater Toronto and Hamilton area and decreasing greenhouse gas emissions from passenger transportation by about 29%.

On slide number 7, we have a lot of work under way right now. I'm not going to go through this in detail, but there is about \$16 billion worth of investment in over 200 projects, which represents the largest program in a generation in terms of our transit and transportation system in this region. Whether it's York region and bus rapid transit, whether it's the Spadina subway extension to York region, the significant transformation occurring at Union Station, the Union Pearson Express, Toronto light rail transit and a variety of other projects, there's a significant construction build that's funded and is under way right now.

On slide number 8, we are looking now at the proposed next wave of projects. What is the value proposition that we can offer the people of this region, as well as the economy, in terms of dealing with our congestion challenges going forward? This suite of projects is based upon the growth plan for the greater Golden Horseshoe, as well as the Big Move, and has been identified as the next wave of priority projects based on a prioritization process and completing business case analysis across the region.

You can see that we've tried to include a suite of subway expansion projects; new rapid transit, whether

that's light rail transit or bus rapid transit, in all parts of the greater Toronto and Hamilton area; expansion to the GO Transit system and Union Pearson Express in terms of extending two-way, all-day service of GO across the region and electrification of major parts of the corridor; as well as—and I think this is an important point—investing in the local transportation system, whether that's roads or transit, because each and every trip begins or ends on a local part of the transit or transportation system.

On the following slide, this investment is a significant one of \$34 billion, but it also has significant benefits in terms of growing the economy and supporting new jobs across the greater Toronto and Hamilton area.

Clearly, over the next few slides the big focus of the conversation over the last few months and continuing on for the next few months is, how do we fund such a significant investment in our infrastructure? We do have a legislative framework that identifies that by June 1, Metrolinx is to provide its best advice to the province of Ontario and the municipalities on the kinds of revenue tools that may be used by the province or municipalities to support the implementation of the regional transportation plan, and that's been our focus of activity over the past few months and will continue over the next few months.

We did look at other jurisdictions. We looked at about 15 jurisdictions around the world, and I'll say, if there's one thing that really stands out—whether you look at Vancouver, Montreal, Los Angeles, Chicago, New York City, Paris or London—it's that, of course, all these jurisdictions rely on transfer payments from all levels of government, but we are unique. We're unique in that we're pretty much the only city region that relies 100% on transfer payments from government—and the annual discussion that we have with federal, provincial and municipal governments about our funding requirements. All of the other jurisdictions have some form of dedicated investment tool that allows them to plan for the future and have a sustained program.

#### 1500

Some of the best practices, you can see, are identified here, including having a suite of tools, including building a key role for the private sector for the delivery of infrastructure, and improving accountability and transparency. Just last week, Metrolinx released a short list of investment tools, and this is, based on analysis, the public input that we've received over the past few months, feedback from stakeholders and municipalities, to amount to about a \$2-billion per year investment in the transportation and transit system.

We believe that one or more large revenue generators are required just by virtue of the scale of the investment that needs to be made in this region, but also that smaller tools can play a significant role that outweighs their monetary impact because of their policy implications. The example I'll use is land value capture, where you can more tightly integrate land use planning and transportation planning going forward.

As we've talked to the public in particular, we've heard that there's support for four key principles: a dedicated revenue stream, fairness in the distribution of costs and benefits, equity across the region so that no part of the greater Toronto and Hamilton area is left behind, and improved transparency and accountability.

As we move forward in terms of how we come to our final advice to the province and municipalities, we'll be looking at those four principles as well as five key selection criteria that include: a strong, predictable and durable revenue stream; reasonable cost and ease of implementation—we've heard time and time again that people do not want to see a significant administration built up that is required to administer an investment strategy; send price signals on how we consume and use our transportation system; promoting economic competitiveness because, in the end, this is about supporting the economy of this region; and promoting social fairness and equity, again, to make sure that any of the disproportionate impacts on lower incomes, for example, can be mitigated through the strategy going forward.

Our next steps include seeking public and stakeholder input on the shorter list of potential dedicated investment tools and reaching out to and speaking with our municipal partners. We're on track to release our final report and recommendations at the Metrolinx board of directors' meeting scheduled for May 27. We're inviting the public to learn more about the various tools that have been used around the world and to join this conversation through our website at [www.bigmove.ca](http://www.bigmove.ca).

With that, I'm happy to answer any questions or comments that you may have. Thank you for your attention.

**The Chair (Mr. Bas Balkissoon):** Thank you. We will start this round of questioning with the government. Mr. Flynn.

**Mr. Kevin Daniel Flynn:** Thank you, Bruce, for your presentation—always interesting. You've quantified some things here, and sometimes people are afraid to do that. You've said that if the plan works, you will go from an average commute time of 82 minutes to 77 minutes, and that if we don't do anything, it will go up to 109 minutes. I think the average person on the street would think that five minutes isn't very much, so I thought I'd give you a little bit of a chance to expand on that if you wanted to.

**Mr. Bruce McCuaig:** Absolutely. I would say that the five minutes is an average across the entire system. If you live and work along one of the key rapid-transit corridors, your benefit would be that much more significant. As an example, the people who live along the Eglinton corridor, with the construction of the light rail transit line, are going to be saving up to 20 minutes each way in their commute time, so 40 minutes a day. It's all obviously very sensitive to the kind of trip—where your origin and your destination are.

The other thing I would really like to emphasize is that we're adding 100,000 more people to this region each and every year. That's the equivalent of bringing Barrie in. That's the equivalent of bringing in, over 20-odd

years, the population of the greater Montreal area. Trying to build the infrastructure so that not only can you accommodate that growth but also actually reduce the average commute time is a significant undertaking.

**Mr. Kevin Daniel Flynn:** This just needs a yes or no, I think, Bruce. You said that there's going to be a corresponding decrease in greenhouse gases by 29%. I'm assuming that's 29% of the 15% that's caused by traffic congestion, not an overall 29%.

**Mr. Bruce McCuaig:** An overall 29%, but of course, that will be targeted mostly on the excess emissions that come as a result of congestion. Greenhouse gas emissions, just like other air quality emissions, go up significantly as there's more congestion in the system, so there will be a benefit above and beyond that 15%.

**Mr. Kevin Daniel Flynn:** Okay; that's good news.

Prior to coming here about 10 years ago, I spent 18 years on regional and town council in Oakville and in the region of Halton. I'm probably as guilty as anybody, as any local politician: We seem to have put all the growth where the transit isn't, and then we wonder why we can't get the buses or the trains or whatever it is up to the people.

From a land use planning perspective, how integrated are you now into the system? When a community like Oakville, like Oshawa or like anywhere else is planning the residential growth, do they come and consult you directly as to how you're going to get those people to work in the morning?

**Mr. Bruce McCuaig:** This is actually a very strongly growing area of integration across both the transportation and land use planning areas. The growth plan was a significant start, the greenbelt strategy was a significant start, and the Big Move, and how they all connect is a key part of how we deal with these issues.

When we think of an investment strategy, we actually think of four elements, of which investment tools are just one element, and the first element has to be, how do we better integrate our long-term planning for land use and growth with transportation? Because if we can connect that as strongly as we possibly can, then that's probably the number one way in which we can address some of our congestion in this region.

**Mr. Kevin Daniel Flynn:** You point to other jurisdictions around the world as having some of the best practices. If you had to pick one jurisdiction that was doing it right, which one would it be?

**Mr. Bruce McCuaig:** Well, first of all, I have to say there's no silver bullet, because when we look around the world, they all come from their existing culture, history and tradition, and what works there doesn't necessarily work in our context.

But there are a few key best practices. One is, regions that rely on a suite of tools—because if you use one single tool, you tend to disproportionately impact one segment of the population, first of all, and secondly, it's sensitive to cycles in terms of that part of the economy. So, for example, Los Angeles uses one tool: a sales tax. When the economy is buoyant and people are consuming,

that's a very strong tool. Right now, it's not so much a strong tool, and they're needing to deal with that. So having a balanced system, a suite of tools like Vancouver has and like New York City has, is one of the key best practices.

I think the second best practice is trying to link who's consuming and using the services and who's benefiting the service, so that there's fairness in that connection. When we look at places, again, like New York City, and when we look at places like Paris, they're trying to get that connection as positively as they can so that people feel that they're giving their fair share towards the transportation system.

**Mr. Kevin Daniel Flynn:** Do I have much time left?

**The Chair (Mr. Bas Balkissoon):** Thirty seconds left.

**Mr. Kevin Daniel Flynn:** Very specifically, where the GO train has worked well is on straight lines: Oshawa-Toronto, Toronto-Oakville-Burlington. Are there plans for that corridor that are going to make what we're doing well work even better?

**Mr. Bruce McCuaig:** Absolutely. We have two key strategies for the GO system. One is to provide the same level of service that we currently have on the Lakeshore corridor, where we have two-way all-day service throughout the day. It's hourly service, and we'd like to increase that up to 30-minute service. But we'd like to have that level of service on the Milton corridor, the Georgetown corridor, Barrie, Stouffville, Richmond Hill—all of the corridors have that level of service. That's piece number one.

**The Chair (Mr. Bas Balkissoon):** Thank you. We have to move to the opposition: Mr. O'Toole.

**Mr. John O'Toole:** It's a pleasure to meet with you personally. I remember the days when you were ADM at transportation, so it's nothing new for you; you've been listening to it. Also, I'm sure you're paying very close attention to the forum on transportation futures going on today in Toronto, and the subject there is the mobility funding, kind of the same thing that's really talking about the Metrolinx challenge of new tools. Let's just call it—let's be honest. It's a new tax. What's the tax source? Consumption, use—whatever.

It's interesting, because there is sort of a driving thematic thing here. The Places to Grow document says it's the best. It's probably addressing my colleague's comment there with respect to development in the future, intensification, because you know full well that transit does not work where there's no density. It's simple.

All the municipal transits now get gas money by having a transit system. I use it. There's nobody on the buses—maybe first thing in the morning. There is none. The second largest tax increase in Durham region this year, next to policing, was transit, and I think we've hit the wall in terms of transit—not against transit but how it's being implemented and where it's being implemented.

1510

I have a couple of questions. Right now, there's such a populist—every time you pick up the media or turn on

the television, there's an extensive advertising campaign going on to bump this up. I think the board of trade was paid to implement this inquiry into these new tax tools, to drive the public awareness—I'm not trying to be a conspiracy theorist here, but I have a specific question. What is the current advertising campaign costing? You may not have the numbers off the top of your head, but I would like the numbers being spent on media, all forms of media—television etc.—for the Metrolinx push for more taxes. I'm going to call it taxes, not tools, because that's exactly what it is, and I understand that.

I've been to New York. I've been to Boston. I've been to Chicago. I've been to Vancouver. I have two daughters living in London, England. I get it. We don't have the density. We're a linear development, and I think you're going in the wrong directions at the wrong time for the wrong reasons, instead of to the right place at the right time for the right reasons. Toronto—I get it; the Pan Am Games and all that stuff.

The second part of this is: How much, in the last five years, have you contracted for advertising and public relations to deal with the Metrolinx Big Move challenge? Let's be honest. The Big Move—I was the critic at the time, in 2010 I think—\$50 billion over five years. That's \$5 billion a year for 10 years. That's \$5 billion of new money. That's capital; it's not operating. We already know full well that transit operates at a deficit from the fare box. It's the most heavily subsidized public service going. I think that if we try to do what we've been doing, it's going to be unsustainable, and that's really the dilemma you're in. I don't blame you personally, of course.

I'll leave it there. There's enough on the table. I could ask questions, because I use transit every day. I have a Presto card.

I'm going to let my colleague Jack talk about the Presto card.

**The Chair (Mr. Bas Balkissoon):** You've got about a minute for your answer.

**Mr. Bruce McCuaig:** Okay, I'll just very quickly touch base on a couple of things. One, transit is all about service, reliability and frequency. As we've seen, both in the 416 as well as the 905, if you provide those three things, you can grow your transit ridership significantly. So I do believe there is space for making this happen.

We are happy to look at and provide information about our advertising campaign for the Big Move over the past five years. It has been relatively small. In fact, one of the criticisms we've received in our discussions with the public and stakeholders is, "Why aren't you out there more, talking about the need for this kind of stuff?" But I'd be happy to provide the committee with that information.

**The Chair (Mr. Bas Balkissoon):** Thank you. You've got about five seconds.

**Mr. Jack MacLaren:** What about Presto? It costs \$450 million more than Xerox submitted a bid for in Toronto. Can you explain that?

**Mr. Bruce McCuaig:** Well, first of all, the original Presto system was for GO and the 905 transit agencies,

and it was basically delivered on budget to about \$250 million, procured competitively and delivered, and is operating right now, as the member indicated earlier.

**The Chair (Mr. Bas Balkissoon):** Okay, we have to move to the third party. Mr. Marchese.

**Mr. Rosario Marchese:** The Auditor General had a different view on that matter, but I don't have time for that one.

I do agree with you that when 100,000 people come to the GTA every year, it's going to create a problem. In fact, I'm not sure we're going to reduce congestion. If we get the three million people in the next 20, 25 years, we're in deep trouble. So I think we all realize that investments have to be made and money has to be found to create a better transit and transportation system. That's for sure.

You talked about transit service reliability, and that leads me to my question, because I think that's very, very true. Part of the challenge in getting people to support transit expansion is the regular delays in schedule for completion: the loss of a year on Transit City with the debate with the city of Toronto; delay on Eglinton until 2021-22 due to extra time to tender for P3s; lack of clarity about when the other projects would be completed, as examples, all-day GO service and electrification of the Union-Pearson line.

The question to you: How do we show immediate improvements to GTHA residents to rebuild the confidence that lines will actually be built soon?

**Mr. Bruce McCuaig:** I think that's a great question. One of our obligations is to provide, in a transparent and accountable way, what are our schedules, what are our budgets and then report regularly on how we're delivering to those schedules and budgets.

On the Union Pearson Express, for example, we're right on schedule and right on budget to what we indicated from the outset. So that's a success story.

We also need to make sure we can sustain all partners' commitments to projects right from the outset. I think that over the past generation or so in the Toronto region, we have a history of revisiting our plans and commitments a number of times. One of the things I've heard over and over again from the public is a desire that, once we make a commitment, we fulfill that commitment and not change as governments change. I would say yes, that's one of the common themes we've heard as we've talked to the public.

**Mr. Rosario Marchese:** So when will electrification happen?

**Mr. Bruce McCuaig:** Electrification? We're doing the environmental assessment for that right now and—

**Mr. Rosario Marchese:** We've been doing it for thousands of years, okay.

**Mr. Bruce McCuaig:** Well, we're going to be completed the environmental assessment in 2014; and our objective, subject to having the funding available—which goes to the investment strategy—is to have electrification by 2017 on the Union Pearson Express.

**Mr. Rosario Marchese:** And all-day GO service?

**Mr. Bruce McCuaig:** Depends on the corridor. It's much more complex, because every corridor has its own story, but our objective for every corridor is that we would be able to say that we can have this level of service by a specific date, so that people can hold us to that.

**Mr. Rosario Marchese:** A related question: You've put a lot of effort under the Big Move, on the construction of new transit lines. This is important, but it creates a challenge, because something like 90% of the people in the 905 drive cars, and they want to see improvements to their commute on highways and roads. There are a number of strategies in the Big Move that relate to reducing congestion on roads: active transportation, efficiency of highways, transportation demand management, building transit-supportive communities—there seems to have been less emphasis on these strategies. Given that they're much less expensive than building out transit lines, why don't we focus on that as much or almost more? Because these would bring about greater tangible results for people, and it would seem to me that we should be doing a lot more of that. It seems we're not articulating that as best we can or talking about that as much as we should.

**Mr. Bruce McCuaig:** I have three quick examples of work that we're doing now in terms of the transit procurement initiative:

—to procure jointly, with all municipalities, so it's cheaper for them to provide buses;

—Smart Commute, where we're working with employers to improve the choices that employees have to come into the system; and

—mobility hubs to connect land use and transportation.

In our proposed funding plan, we actually set out that 25% of the funding that would be generated would be available for things like active transportation, transportation demand management, local roads and transit, because we understand that we can't just build significant new infrastructure. We also have to be contributing to those other very powerful pieces that may not cost that much but have significant benefits.

**Mr. Rosario Marchese:** Thanks very much.

**Mr. Bruce McCuaig:** Thank you.

**The Chair (Mr. Bas Balkissoon):** You've still got 30 seconds, if you wish. If not, I'll move on.

**Mr. Rosario Marchese:** There won't leave time for an answer. Move on, Mr. Chair.

**The Chair (Mr. Bas Balkissoon):** Thank you very much for joining us and thank you for your time.

**Mr. Bruce McCuaig:** Thank you very much.

#### TORONTO TRANSIT COMMISSION

**The Chair (Mr. Bas Balkissoon):** Our next presenter is Mr. Mitch Stambler from the TTC. You have 10 minutes for your presentation, and then we move to questions—five minutes from each party. You can start any time you wish.

**Mr. Mitch Stambler:** All right. Thanks, Mr. Chair, and good afternoon. I believe a gentleman is handing out copies of the presentation which I've brought; I'll just wait for him to finish. Okay.

Mr. Chair, there is no question that traffic congestion in Toronto is real, and it is serious. Traffic congestion reduces the quality of life which we all enjoy here, and it also impairs the environmental conditions in which we live. I would imagine that earlier today Ms. Wilding would have cited the estimate of the cost of congestion in Toronto at about \$6 billion per year, and recent polls have said that about 90% of people believe that congestion in Toronto has reached a crisis proportion. That's up from about 70% a couple of years ago.

Pretty much every forecast of traffic congestion in the GTA points to things getting worse; in particular, the Toronto official plan says that by 2031 the city's population will have increased by 20% and employment by 30% but, despite that fact, the official plan calls for no new roads in this city. If we have increasing demand to travel, with no new roads, clearly the precious road space which exists in Toronto should be used to move people, not cars.

There have been many different initiatives by different governments over the years to try to address the issue of congestion. There was the federal task force on urban issues, the provincial smart growth council, the GTA gridlock subcommittee and, most recently, Toronto's consultation efforts known as Feeling Congested?

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Pretty much every study and all research that's done on this issue eventually leads to the conclusion that transit is the best means of solving congestion. I think everybody understands and knows the importance of transit to cities: It stimulates economic growth, it supports employment, it provides accessibility for people with mobility impairment, and it influences land use. In addition to all of that, study after study shows that increased use of transit reduces traffic congestion.

The advantages of transit are that it is compatible with pretty much every type of land use; it is accessible to everybody—people of differing income levels and different mobility levels; it provides high capacity, which is expandable; and it is sustainable and environmentally friendly. It is usable by everybody, as shown at the bottom of page 8.

If we look at the top of page 9, if you look at the number of people who consume road space in those cars and put them all instead into a transit vehicle, it becomes very clear why transit is so very effective at reducing congestion. A single transit bus will replace 50 cars on the road. A streetcar in Toronto replaces about 70 cars. The new, high-capacity, accessible streetcars which will be put on our roads soon will replace about 120 cars. A subway train replaces about 1,000 cars. During peak periods alone, the Yonge subway removes about 140,000 cars from Toronto's roads. Every day, the TTC removes and replaces 1.5 million car trips in the city.

The good news is that while Toronto is obviously the most congested part of the province, it's also the city

where people are most eager, anxious and agreeable to using transit, and that's a good thing.

At the bottom of page 12, you'll see that three quarters of Toronto residents use the TTC at least once a week, and about one quarter of residents take transit at least once a day. If we look at the number of trips entering into various parts of the city, in the morning peak period you'll see what a huge number of trips in Toronto are taken by transit. That trend is continuing and increasingly unabatedly, as you can see at the bottom of page 13.

It is important, of course, that we continue to expand rapid transit, such as the completed—well, the partially completed Sheppard subway, the current construction of the Spadina subway and the current Metrolinx construction of the various light rail lines in Toronto, each of which will remove a large number of car trips from Toronto. But if this committee wants to recommend action by the provincial government, we should never lose focus on the much-unsung hero, the low-cost, proven workhorse of transit: the bus. Not everything that we do to improve—

*Interjection.*

**Mr. Mitch Stambler:** I'm sorry? Yes, of course, sir.

Not every investment that the provincial government makes in transit must be a high-cost, big-ticket item like a subway. In fact, it may surprise you to know that fully 70% of the trips made on the TTC every day use buses for part or all of their trip. So if the provincial government wanted to do something quick, low-cost, effective, immediate and achievable in the short term, then investing in more buses in Toronto would be a very wise choice. I've given some examples here, at the bottom of page 16, that if the province were to invest in simply more buses for the TTC, we could use them, for example, to reduce crowding during peak periods on all of our bus routes. As service becomes less crowded and more comfortable, it's more attractive, and more people will ride transit. That's just a proven fact.

More buses in Toronto would allow the TTC to introduce a new network of 21 bus routes, each of which would provide service every 10 minutes or better, all day and all evening. More buses provided to the TTC in Toronto would allow the TTC to introduce a new network of 19 new express bus routes, which would also be very attractive to many people.

More buses in Toronto would allow us to implement more initiatives like the bus rapid transit facility currently operating between Downsview subway station and York University, shown on page 18. There are other opportunities for bus rapid transit which are being studied and could be implemented in Toronto.

A reasonable question is, how confident are we that investing in buses, as opposed to the much-more-touted light rail and subway—how confident can we be that that would really attract more people to transit and reduce congestion?

Well, back in 2003, the TTC introduced what we called our Ridership Growth Strategy. That was really focused almost entirely on improvements in bus service.

On page 20, you'll see that as part of that strategy, we implemented significant improvements to peak-period bus services across the city as well as increasing the amount and frequency of off-peak bus service right throughout the city.

As you can see on page 21, it can be no coincidence that the increase—the dramatic increase—in ridership which has been occurring in Toronto coincides with the implementation of the Ridership Growth Strategy starting in 2003.

In fact, an interesting pattern in Toronto, which distinguishes the TTC from so many other cities, is that in Toronto every day, the TTC carries more people during off-peak periods than we do during peak, which is to say people in the city believe that transit is an integral part of their lifestyle. It's not just something that they're forced to take to get to work because roads are too congested. They take transit all day, for all kinds of trip purposes, every day of the week. So the province has a great opportunity in Toronto to make transit a more effective and more attractive option, because the people in this city really support transit and use it.

If the province wanted to provide more funding for buses, I would suggest or recommend that the province put conditions on that, because congestion makes our transit services and our bus services also move more slowly. TTC buses, TTC streetcars—everything operating in mixed traffic operates more slowly and gets stuck in congestion, just like everybody else does, using our roads. In fact, looking back over a 10-year period at the TTC, in order to offset the slowdown in transit operating speeds which results from congestion, the TTC had to add 20 more buses to streets and another eight streetcars, which together constitute about \$37 million in capital costs and an increase in operating costs of \$15 million annually. That doesn't really provide more service to people. It's the cost of offsetting the slowdown in transit operating speeds.

**The Chair (Mr. Bas Balkissoon):** You have 15 seconds left.

**Mr. Mitch Stambler:** Yes, Mr. Chair.

Therefore, if there were an interest by the province, it should put conditions on such funding, such as requiring the municipality to provide transit-supportive initiatives like queue-jump lanes.

Mr. Chair, I'll conclude just by saying transit is an excellent solution for congestion. There are opportunities for the provincial government to do this at low cost.

**The Chair (Mr. Bas Balkissoon):** Thank you. I have to move to questions.

**Mr. Mitch Stambler:** Thanks, Mr. Chair.

**The Chair (Mr. Bas Balkissoon):** The official opposition, Mr. MacLaren.

**Mr. Jack MacLaren:** Thank you, Mr. Chair. My question is about Presto. I'm aware that the TTC issued a tendered process about two years ago, and the Xerox company came in \$450 million cheaper than the Presto card system. They also have developed an open-fare system, which Presto has not. Yet Toronto chose to sign a contract with Presto. Could you explain that to us?

**Mr. Mitch Stambler:** I would say, Mr. Chair, there are two reasons. One is that it is absolutely critical that the TTC be part of an integrated transit system for the GTA. Many different people ask about the integration of services. What is interesting is that transit services in the GTA, or across Toronto's boundaries, are very well integrated. It's the fares that are not. It is the fact that people have to reach into their pocket and pay twice that is a big deterrent to people travelling between regions.

One of the important motivations for the TTC signing on is because we need to have an integrated fare system whereby people in York region or Peel or Durham can travel unimpeded or, as the saying goes, seamlessly between Toronto and the other regions.

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The second interesting finding is that while the TTC was certainly interested and intrigued by the Xerox offer of a free-fare system, or a lower-cost fare system—open payment—it is my understanding that most recently, that very technology that they were offering to us has in fact had significant technological problems and is not working at all the way they thought. If we had gone that route, it might have put us further behind the eight ball than we are today. So I'm not sure that that really would have been—this is a little bit of Monday morning quarterbacking, but it might have actually put us in a bit of a pickle right now, because I believe that they're having trouble with that technology.

**Mr. Jack MacLaren:** Well, I understand the need for an integrated system across the greater Toronto area and in fact across the province, including Ottawa. I would suggest to you that the Xerox system does work, because it's in place in other cities as an open-fare system, and Presto has not yet developed that. So I'm not so sure it would have caused you a problem; I think it might have solved your problems.

Was it true that gas tax money was threatened to be withheld from the province if, in fact, you didn't sign a Presto contract?

**Mr. Mitch Stambler:** Mr. Chair, I am not in the finance area. I'm honestly, honestly not sure about what sort of negotiations might have taken place. In all honesty, I'm not sure I could answer that knowledgeably.

**Mr. John O'Toole:** We'd like you to provide the committee with the answer to that question. You could go to the people who are in charge to get the answer.

**Mr. Mitch Stambler:** I'm sorry, Mr. Chair—if the honourable member could kindly repeat that. I'm not sure what I'm being asked.

**The Chair (Mr. Bas Balkissoon):** Do you want to repeat the question?

**Mr. John O'Toole:** The question you were asked is, were you on the condition of signing on to Presto to get the gas tax, and if you don't know the information, could you please provide that to the committee?

**Mr. Mitch Stambler:** I think that would be a better approach, Mr. Chair, yes. Because I'm really not sure.

**The Chair (Mr. Bas Balkissoon):** You still have a minute and a half.

**Mr. Rob E. Milligan:** If I may? Thank you, Mr. Chair.

Obviously, the PC caucus and Tim Hudak are very aware that transportation is a huge concern here in the GTA and in the Hamilton area as well. What I'm hearing today from yourself by your own admission is that subways tend to be the preferred way of transit—it replaces 1,000 cars; that's impressive—but you yourself pushed buses.

My question then is: How many new buses would we be looking at, and what would the cost initially be to increase that fleet—also, obviously, garage space, repairs etc.—and how much would that cost annually to run that increased number of buses?

**Mr. Mitch Stambler:** First, just a point of clarification: I don't believe, or at least I didn't intend to suggest, that the TTC favours subways over other modes. In fact, the TTC has been a very strong proponent of light rail because with light rail, one can provide all the capacity that is needed in a city of this size, as opposed to, say, a New York or a London or a Berlin or something, and do that in any given quarter at about 25% of the cost of a subway. So in fact, out of pure respect for taxpayers' dollars and trying to make the very best use of taxpayers' dollars, the TTC has been advocating light rail rather than subway.

Of course, subways are great. Everybody loves subways. But we're very, very mindful that government funding is extremely limited and subways are extraordinarily expensive. I just say they're well warranted in London or New York, but we are not London or New York so we don't believe we have need for such high-capacity transit in most corridors.

In terms of how many buses would be required, I daresay there is almost an unlimited number of great things the TTC could do for Toronto with more buses, but a bus garage typically holds 250 buses. We are pretty much out of capacity, so for any significant increase in bus service, we'd need a new bus garage. That costs about \$90 million to build.

Then, say—

**The Chair (Mr. Bas Balkissoon):** I will have to cut you off now. Time is up.

The third party.

**Mr. Rosario Marchese:** This is a serious question: Do you think we could fund subways through casino revenues and/or efficiencies? If it's too political, just tell me.

**Mr. Mitch Stambler:** I certainly wouldn't want to delve into the political side of this. The only comment I'd make is that subways—in fact, most big transit investments, but subways in particular—are phenomenally expensive. I think that most people fail to appreciate how expensive it is to build it.

**Mr. Rosario Marchese:** It's \$400 million per kilometre, more or less?

**Mr. Mitch Stambler:** Per kilometre. So a major subway line can typically be—well, let's say the downtown relief line that's being considered right now, depending on where it's built and when it's built, would probably

cost between \$4 billion and \$7 billion to construct. To the best of my knowledge, as a non-financial person, I don't know that a casino could provide funding of that magnitude.

**Mr. Rosario Marchese:** It would be hard.

**Mr. Mitch Stambler:** It would be hard.

**Mr. Rosario Marchese:** Tell me, what does Metrolinx think about the bus strategy that you were proposing? Because it's a very practical one and a useful one.

**Mr. Mitch Stambler:** Well, I believe that—I'm not sure if Mr. McCuaig is still with us or if he's left, but—

**Mr. Rosario Marchese:** He's not here.

**Mr. Mitch Stambler:** He's not here? Okay. What I would say, Mr. Chair, is that Metrolinx has, quite understandably, focused on higher capacity, higher-speed services that will benefit inter-regional travel, which is what their main mandate is. To a very large degree, they take the position that local transit services, services that will be used almost exclusively within a municipality, are the responsibility of that municipality. So, while they clearly support bus services by virtue of, say, the procurement strategy, which I just heard Mr. McCuaig mention, they typically have not taken responsibility for initiatives like this. I think they support it, but it's not sort of the league they're playing in at this moment.

**Mr. Rosario Marchese:** Thank you.

**Ms. Sarah Campbell:** I just have a couple of questions for you. As simple as it may seem, can you define "gridlock" briefly?

**Mr. Mitch Stambler:** I believe that gridlock is when the volume of traffic on roads is either at or exceeding the capacity of the roadway such that the throughput grinds down to something close to zero because vehicles simply cannot—there's not enough space on the road to accommodate all the vehicles wishing to use it.

**Ms. Sarah Campbell:** Okay. In addition to high-volume usage, would you say that gridlock could also include things like road closures, slow traffic as a result of accidents or poor road maintenance?

**Mr. Mitch Stambler:** Mr. Chair, I would say that those are certainly things that can contribute to poor traffic operations on an interim basis, but I believe that the problems which are much talked about in this city are essentially chronic and long-term deficiencies of road capacity, which are not typically linked to, say, a temporary road closure or an accident.

I would say that the intersections in the city of Toronto, which are really the control valves for traffic, are all operating—virtually every one of them is operating at their maximum capacity right now, and that's sort of a permanent chronic condition, not a temporary thing.

**Ms. Sarah Campbell:** I hear you. What about areas, if you can imagine this, where there's maybe only one route to get to your destination? Say there were pretty ongoing, regular, constant issues with road closures due to accidents or poor road maintenance. Would you say that that, then, in that particular case—

**The Chair (Mr. Bas Balkissoon):** You have about 30 seconds.

**Ms. Sarah Campbell:** —in that particular location, would contribute to gridlock?

**Mr. Mitch Stambler:** I believe, Mr. Chair, it would. Sure.

**Ms. Sarah Campbell:** Okay. One final question: Would you say that in order to prevent gridlock, we would need to take steps in those instances to ensure alternate routes are available, whether they're serviced by public transportation or otherwise?

**Mr. Mitch Stambler:** Well, Mr. Chair, I would truly view that as a policy question which a municipality has to deal with, because if that alternative route meant, say, building a new road in a municipality or a neighbourhood which didn't want it, then they might not choose to do that.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. I have to move to the government side. Mr. Colle?

**Mr. Mike Colle:** Thank you, Mr. Chair, and thank you, Mr. Stambler, for your usual insightful and penetrating comments that very few people have the ability to express as well as you have. As usual, you're right to the point.

I just want to ask you one question, because I think it sort of clarifies something that was said here earlier, when I heard a comment from a member of the opposition saying that public transit was one of the most heavily subsidized of all public services. In other words, he was saying we've got more subsidies for transit than we do for health care and education.

I think you should put on the record for my esteemed colleagues what percentage of Toronto transit revenues come out of the fare box that the users pay. Unlike for education, unlike for health care, beyond the taxes they pay in property tax and everything else, what do the users pay for public transit in that fare box? Whether they use GO Transit, whether they use the TTC, what do the users pay in Toronto?

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**Mr. Mitch Stambler:** Mr. Chair, in Toronto and for the Toronto Transit Commission, presently, 72% of operating costs are paid for through fare revenues from users. I believe that for GO Transit, somewhere in the range of 90% of their operating costs are paid by the user.

**Mr. Mike Colle:** Isn't that one of the highest levels of user contributions to transit anywhere in the world?

**Mr. Mitch Stambler:** Mr. Chair, it is absolutely among the very highest, if not the highest, in the world.

**Mr. Mike Colle:** We should thank you for putting that on the record.

You can see the dilemma we're facing here. They love subways. They don't understand that it costs \$400 million a kilometre. They're against paying for the subways. They don't want to have tolls. They don't want to have road pricing. Even the NDP are saying, "Well, I don't know. This could be a tax. We're going to be paying for subways and transit." Everybody wants electrification of GO lines. They want all-day GO service. They want sub-

ways everywhere. Yet they're very reluctant to talk about funding for this heavy-rail/light-rail transit infrastructure.

Therefore, you have come up with a very pragmatic state of affairs—that if you really want to take one "quick" step towards reducing gridlock and getting more people on transit, there's something on the table that is proven, affordable and doesn't need the infrastructure work and tunneling and electrification: good old-fashioned buses. What does a bus cost? What does a subway cost?

**Mr. Mitch Stambler:** Mr. Chair, I'm not sure that I'm up to speed on all of the latest procurement, but a current-technology bus is typically in the range of, I believe, \$600,000. I'm sure I'm out of whack on subways because this is not an area I specialize in, but a subway probably costs—about \$9 million for a train.

**Mr. Mike Colle:** I just have my old history with the TTC, that I want to put this on the record: that for all of us, in terms of looking at congestion, I, like most people in Toronto—we love our light rail. We love our subways. We love our streetcars, especially.

**The Chair (Mr. Bas Balkissoon):** You have 30 seconds left.

**Mr. Mike Colle:** But we have to also maybe recommend, as one alternative for reducing congestion, a re-investment in buses, in dedicated lanes—HOV lanes with buses. They work, they're affordable, and you can do it "tomorrow."

Thank you very much for your presentation, Mr. Stambler.

**Mr. Mitch Stambler:** You're welcome.

**The Chair (Mr. Bas Balkissoon):** Mr. Stambler, thank you very much for being here.

**Mr. John O'Toole:** Just for the record—

**The Chair (Mr. Bas Balkissoon):** I'm sorry, I have to move to the next deputant.

**Mr. John O'Toole:** Point of order, Chair?

**The Chair (Mr. Bas Balkissoon):** Point of order.

**Mr. John O'Toole:** For the record, I would like it that the member for Eglinton—Lawrence is on the record as saying he wants gondolas—

**The Chair (Mr. Bas Balkissoon):** That's not a point of order.

#### SHARE THE ROAD CYCLING COALITION

**The Chair (Mr. Bas Balkissoon):** We'll move to the next deputant: Share the Road Cycling Coalition, Eleanor McMahon.

*Interjections.*

**The Chair (Mr. Bas Balkissoon):** I'll ask members to show a little bit of respect to the deputants.

Just for the information of those who are in the audience, the coffee and refreshments are available to everybody, so don't be shy.

You have five minutes for your presentation, and we'll move to five minutes of questioning from each party.

**Ms. Eleanor McMahon:** I'm going to move lightning-fast, Mr. Chair.

I'd like to send greetings to all members of the committee. I see around the table many people I've had the pleasure of working with. It's nice to see you.

Today I'm going to talk about cycling, Mr. Chair. Inside this slide deck is information relative to our pre-budget submission that we just tabled, a bit of a snapshot on cycling in Ontario—because we're an Ontario-based organization, so I have some polling data to share that's fairly relevant, I think. In general, we're going to talk about making cycling an increased part of the daily commute and how we think that contributes to congestion.

With your indulgence, Mr. Chair, the first six pages—since I'm speedy today—really have to do with our organization and who we are and what we do. Most members of the committee can either read that in their reference time or, certainly, know who we are.

I'd like to start our provincial ask for budget 2013 with apologies, because there are no page numbers on these. Sorry, everyone: a little slip on my part.

So here we are: We ask that the government divert \$25 million, or 1% of the budget, to community cycling infrastructure this year, creating the Ontario bicycling investment fund. This would contribute to the development of the Ontario cycling network highlighted in the recent release of the Ontario bicycle strategy, which I released with Minister Chiarelli in November. It would enhance economic development. It would also create the kind of active transportation corridors in municipalities that this committee has been discussing. And, of course, cycling education is part of that conversation relevant to the coroner's review.

Next page: Healthy children in our future is a critical piece to all of us, I think, so funding active and safer school programs is part of our ask, creating that winning condition. Busing costs \$800 million in Ontario. If we had ways to get our children cycling and walking to schools, that would obviously be mitigated and we'd have healthier children, lower health care costs etc. Of course, combating congestion in the communities during those peak travel hours when children are being driven to school is in all of our interests, I think.

If we move on to the emerging context in Ontario, a few pictures here, breaking up the words, showing all the mass participation rides. Most of the committee members are aware of them. A number of them take place in Toronto. We hold seven rides across the province, so Toronto doesn't own that.

I want to share some public opinion data from 2012. The sample stuff is in there. If you look at who is cycling in Ontario now, the snapshot will tell you that 28% of Ontarians cycle at least monthly: Some cycle daily or almost every day, some weekly or almost weekly, and then, of course, 12% monthly or almost monthly. High numbers, good numbers, we think, for the province of Ontario.

Next slide: 4% of Ontarians say they ride their bike daily etc.

Mr. Chair, the members of the committee will be familiar with the conversation around cycling, which,

unfortunately, is altogether too polarized on occasion. Is there a war on the car, or anything else, for that matter? I say this quite tongue in cheek, with your permission. We would say not, given that if you look at this polling sample, 80% of Ontarians cycle, with 83% of the total sample driving a car. If you turn the next page, this is explained. Driving a car at least weekly is just about as common for cyclists as it is everybody else, sort of demonstrating that we're all the same people trying to share the road, so the rhetoric needs to change.

If we look at pent-up demand in the province, a majority of Ontarians say that they'd like to ride more. This is important for all kinds of reasons: relative congestion, economic development, and our health, of course.

If you look at the next page, it's illustrated quite nicely by the two bike wheels: 28% of Ontarians cycle now; 58% want to cycle more. It's kind of interesting when you think of the pent-up demand and the potential to mitigate congestion with those short trips.

Turning to the next page, less relevant, I think: unlocking that pent-up demand. If we think about what's going to get people on their bicycle, the next two pages address that specifically.

When you look at the graph, more cycling infrastructure is going to get us there.

**The Chair (Mr. Bas Balkissoon):** About one minute.

**Ms. Eleanor McMahon:** Thank you, Mr. Chair. I'm going to speed right through.

I wanted to focus on these polling numbers because I think they demonstrate clearly that more Ontarians want to cycle more. The next couple of slides speak to that pent-up demand even more.

If I could draw the committee's attention to the graphs that follow, I'm now looking at government action. I'm moving along quickly.

When we asked Ontarians why the provincial government should invest, they gave us a variety of reasons in response to our questions. I draw your attention to the fact that they think that a portion of revenue from gas taxes should be directed to cycling and cycling infrastructure. Fifty-nine per cent of Ontarians agree that our 1% solution is on the money.

Moving right along—and I'm trying to finish quickly here—the second slide that talks about government action, with the four squares: What does that tell us? That 70% of Ontarians think investment in cycling is a good idea. It's broken up into a couple of areas. Some say don't spend much money. The good news is, cycling is cheap and there are a lot of things that we can do.

Thank you, Mr. Chair. I tried to make the best of my five minutes. There's lots in here, but I'm happy to just chat.

**The Chair (Mr. Bas Balkissoon):** Questions? Mr. Marchese.

**Mr. Rosario Marchese:** Thank you, Eleanor, for coming again.

**Ms. Eleanor McMahon:** My pleasure.

**Mr. Rosario Marchese:** My bicycle is ready to go.

**Ms. Eleanor McMahon:** Excellent.

**Mr. Rosario Marchese:** It's about 40 years old, but it still works.

Eleanor, just a quick question for you, because you might know better than me. The consultations on the cycling strategy obviously have happened.

**Ms. Eleanor McMahon:** Yes.

**Mr. Rosario Marchese:** When do you think it will be completed? Maybe they speak to you more than they speak to us.

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**Ms. Eleanor McMahon:** Through you, Mr. Chair, I can tell you a couple of things. There have been over a thousand submissions to the strategy, which I think is extremely heartening, and we held a number of consultations. I hope to meet the minister in the next couple of weeks and perhaps he'll share that information with me. Talking to officials, they're not sure. It's not finished yet; it's a work in progress. Certainly, the change in minister and so on and so forth has meant that that's taken a little bit longer than they may have wanted, but it's on its way. You can be sure that we're going to get it seen very soon.

**Mr. Rosario Marchese:** Of course. It's always on its way.

**Ms. Eleanor McMahon:** I know.

**Mr. Rosario Marchese:** It's always a question of when.

One of the questions I had asked the ministry was something that I think is of concern to you, because we think the Highway Traffic Act is outdated and is a barrier to sustainability mobility.

**Ms. Eleanor McMahon:** Indeed.

**Mr. Rosario Marchese:** And we think changes are needed to encourage cycling safety, cycling infrastructure and complete streets. They're saying this is part of their review, although I don't know how old this act is; the other one is 80 years old, the Public Vehicles Act. This is probably very old as well—I forget how old it is—in terms of changes that haven't been made. Why do you think the government has been so slow to react to changes that would include cycling infrastructure and cycling safety and complete streets, which we know more and more people want? Why do you think they are so slow?

**Ms. Eleanor McMahon:** Through you, Mr. Chair, I don't really know the answer to that question. What I can tell you is that the cycling policy hasn't been renewed in 20 years. When we started this work five years ago it was front and centre on our plate, and it has taken us all a while to move in that direction, perhaps longer than we might have wanted. But it's here now. I took part in a ministry-led review of the Highway Traffic Act, and so I know that that has happened. Organizations like ours have contributed and told the ministry what we think should happen, including a one-metre passing law, which of course Nova Scotia and over 20 US States now have to make our roads safer. Complete streets language within the official policies and plans in municipalities is something we've advocated for. So soon. I know I'm sounding

like it's coming, but we're doing our best to press as hard as we can.

**Mr. Rosario Marchese:** So those consultations happened—

**Ms. Eleanor McMahon:** Correct.

**Mr. Rosario Marchese:** —when?

**Ms. Eleanor McMahon:** Sorry, I'm having a brain freeze.

**Mr. Rosario Marchese:** A year ago? Two years ago?

**Ms. Eleanor McMahon:** No, no, within the last month and a half—very, very recently.

**Mr. Rosario Marchese:** And the consultations are over?

**Ms. Eleanor McMahon:** Yes, they are.

**Mr. Rosario Marchese:** So they're just putting it all together?

**Ms. Eleanor McMahon:** Yes, they're putting it all together and it's going to take all of us to make sure that it happens, and quickly. I'll look forward to working with you on that.

**Mr. Rosario Marchese:** We'll wait for it. Thank you.

**The Chair (Mr. Bas Balkissoon):** The government side.

**Mr. Mike Colle:** Thank you, Eleanor, for your presentation. Maybe the members of committee don't know that you have a very personal history with cycling and safety, and I really commend you for taking this up as a cause. It's not easy to do that, but I think your work is going to help a lot of people ride safely—motorists and cyclists. Thank you for doing that over all these years.

**Ms. Eleanor McMahon:** Thank you.

**Mr. Mike Colle:** I guess the question I have is that with cycling I think there's an obvious friction that sometimes occurs, because I think we all have a little bit of road rage. I get rage when I ride on the bus or the subway. It seems that when we're moving in space there's always a bit of tension. Is there any way we can remind people that every time we see a person—let's say in an urban setting, especially in the GTA and Hamilton area—who decides to take a bicycle to work, they are removing cars off the road so there's more room for others on the road with their cars and trucks that have to deliver things etc.? Do we have any figures on how many cars might be taken off the road by people cycling at peak periods? Is there any kind of data on that?

**Ms. Eleanor McMahon:** Thank you for the question. Through you, Mr. Chair, not to my knowledge. Most of the data that we work with focuses on mode share—who's riding today and who wants to ride—in the context of what I presented to you, so I don't know. I'm fond of saying, because it's true, that the bike in front of you is the car that isn't. I think that's anecdotally a good argument, but I don't have figures off the top of my head of how many vehicles get removed from the road when people choose to take bikes.

But I can tell you this: Bike-friendly and walk-friendly cities are economically viable cities, and that's clear around the globe. Since we live in a mobile workforce and we're trying to attract talented workers to our shores

and to our country, workers of all kinds—people want to live in cities where they have a choice of transportation, and making cycling part of that daily choice, since it's already part of people's daily transportation choice in a growing way, is good for all of us. It's good for our economy, good for our environment and good for our health.

**Mr. Mike Colle:** The other thing is, I think maybe what this committee should be trying to recommend, and I hope we do, is that as we widen roads or do road improvements or highway improvements, if we could think ahead and use a part of that road right-of-way segregated off to the side, the shoulder, whatever it is—I know Norm Miller from Muskoka had a bill to that regard—that would get rid of some of that friction. In Holland, there's that totally segregated—you can ride right across the Netherlands and be on your own right-of-way with your bicycle. How can we maybe put something in our recommendations to start to get to that point where we plan ahead so we don't have that stress that exists between motorists and cyclists?

**Ms. Eleanor McMahon:** Thank you for the question. Through you, Mr. Chair, there are a couple of options. In the coroner's review from last June and then in the cycling strategy, there's recommendations about complete streets language, which is a way of saying that when a road is redesigned or upgraded, it should be done for all modes of transportation, and it should be done so in concert with the vulnerable road users: cyclists and pedestrians. If the province were to consider making complete streets the law of Ontario, for example, and working within the municipal frameworks to do that, I think it would be helpful. We have to do a lot more to connect land use planning with mobility. I think if the committee were to make some recommendations around that, that would be enormously helpful.

Of course, modernizing the Highway Traffic Act has to be part of the conversation because it's a big part of governing how we share the road, or don't. It hasn't been done in a long time, so I'd like to see that kind of recommendation as well. Of course, we've heard municipality after municipality tell us that they want a predictable source of funding for active transportation, and I think that's critical. That's why it's in there.

**The Chair (Mr. Bas Balkissoon):** I have 30 seconds, if you can make it quick.

**Mrs. Donna H. Cansfield:** Okay, I have a very quick question. If you want to modernize the highway act, are you then suggesting that there could be the possibility of licensing bicyclists? When you're looking at from a current 4% to 12%, putting that infrastructure in—I think you'd asked for \$69 million in the budget to do that—is there a consideration for the issue around licensing? That is the biggest complaint that I get, the fact that cyclists don't obey the rules of the road.

**Ms. Eleanor McMahon:** Through you, Mr. Chair, two things in that regard: What I generally say about licensing is that a licence is not a predictor of good behaviour. Lots of people have a car licence and still misbehave. We're all misbehaving at any given time. To set up a licensing regime—

**The Chair (Mr. Bas Balkissoon):** I have to cut you off and move on. Mr. O'Toole.

**Mr. John O'Toole:** Thank you very much, Eleanor, for your presentation and for the work you've done on road safety and the Share the Road campaign. I respect the work and the motive behind it. It's important.

You've tabled a significant report here, and you really were rushed; by my view, the principle presenters would have had more time to produce, or present, and the committee should consider that in any further discussion on how this committee could move forward. It would be appropriate to ask if you could summarize your recommendations and table them with the committee. That would be the most succinct way for us to make sure we've addressed and respond to the points you've made and the work you put into it, the survey in 2012; and the report on cycling I think you've just presented. Just recently I read in the media that you presented your report on cycling strategy, or something, I read.

I just have a couple of specific questions. I think on the other side they've kind of talked about it. The first question that comes to mind is sort of in the context of Ms. Cansfield, who was a minister at one time, and they had questions on slow-moving vehicles generally. These are bicycles, motorized bicycles, the whole idea of different varieties of vehicles, not just bicycles, motor-assisted—all kinds. That's a very important thing for you to get in on so that you have a larger lobby group. Cycling for all people at all ages really isn't one of the answers with an aging population, but I'm just putting that on the table for you.

But the question that came from the licensing, which I think is paramount, is, how do you propose the cyclists would contribute to this solution of having a lane on every road dedicated specifically for bicycles, tricycles? How would they contribute? How would they pay for it?

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**Ms. Eleanor McMahon:** Through you, Mr. Chair, I'm not sure I understand. I thought that our taxes went towards paying for roads and infrastructure and so on.

**Mr. John O'Toole:** Yes, that's true. How's it working?

**Ms. Eleanor McMahon:** So I'm a taxpayer. I drive and I ride my bicycle. I'm like 89% of Ontarians, so we're already paying the same, and since most—

**Mr. John O'Toole:** Well, you're going to be paying more—that's my point—somehow.

**Ms. Eleanor McMahon:** Well, most Ontarians—you know, to pay more for safety, with all due respect, is like asking car drivers to pay more for safety. Infrastructure is what keeps us safe—

**Mr. John O'Toole:** Well, I guess I'm not really being clear enough in the way I pose the question. What's going to happen here is we heard from TTC that 76% of their revenue comes from the users, and they say the GO train is higher than that, and I'm saying that the car is going to be penalized—for sure, somehow. It's either through licensing or road tolls or scanners or gas tax or whatever else. It's already in the new tools.

The cyclists need to have a response other than, "I'm already paying enough." I kind of agree with that, but you aren't. That's what Kathleen Wynne thinks, that we're not paying enough, and she's going to increase the HST, probably to 15%—that's a nice round number; it's easy to calculate—rather than the 13%.

But I'm saying there's going to be more tax to fix this gridlock issue, period. Now, it's a tax. Are you paying enough? I'll ask you that question then. Or could you pay a little more?

**Ms. Eleanor McMahon:** Through you, Mr. Chair, as a cyclist and a motorist, I think that I am paying my fair share of taxes now in terms of my cycling infrastructure piece. Ontario is so far behind, so far behind—

**Mr. John O'Toole:** Quebec is way ahead; I get that.

**The Chair (Mr. Bas Balkissoon):** Mr. O'Toole, I'd ask you to allow her to answer.

**Mr. John O'Toole:** We're having a dialogue. We're having a dialogue, okay?

**The Chair (Mr. Bas Balkissoon):** No, no dialogues; question and answer.

**Ms. Eleanor McMahon:** So I would have to tell you that if you're thinking about charging cyclists a levy—

**Mr. John O'Toole:** Not me.

**Ms. Eleanor McMahon:** Sorry. I don't mean to put words in your mouth; I'm trying to understand your question.

Cyclists are a net benefit to the economy. We're not taking away from the economy. We're less wear and tear on the roads, we're reducing health care costs, we're contributing to clean air, so we're actually adding to the economy.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. I will move on.

**Ms. Eleanor McMahon:** Thank you, Mr. Chair.

**The Chair (Mr. Bas Balkissoon):** I would remind all members that the deputants are here to provide us information, and we shouldn't be badgering the witness. I would ask you to ask the question and wait for an answer.

**Ms. Eleanor McMahon:** Thank you, Mr. Chair.

**The Chair (Mr. Bas Balkissoon):** Thank you very much, and thank you for taking the time.

**Ms. Eleanor McMahon:** Thank you. I'm going to get in my car now.

#### SOUTHERN ONTARIO GATEWAY COUNCIL

**The Chair (Mr. Bas Balkissoon):** The next deputant is Mr. John Best from the Southern Ontario Gateway Council. Mr. Best, you have five minutes for your presentation, and then we have questions of five minutes from each party.

**Mr. John Best:** Thank you for this opportunity. For those of you not familiar with the Southern Ontario Gateway Council, very briefly, we're a transportation forum whose focus is on goods movement. We've heard a lot of discussion about people movement today, and so

I'll be coming at it from a slightly different view, but let me say at the outset that the last time I was here was about six years ago, and I was recommending at that time that Metrolinx be allowed to be established and that you give them the money and tools to do the job. So it may sound a bit like roads versus transit, but that's not where we're coming from.

Our members include railways, the St. Lawrence Seaway, port of Toronto and Hamilton, Hamilton airport, and then we have large carriers like Canadian Tire and Purolator as members, so our focus is goods movement.

I think one of our concerns is that if you look at the national economy right now, we got through the recession in pretty good shape, but if you think about it, it was really because in many ways our resource economy was so strong that it offset what was happening here in Ontario.

You look at Alberta today with a huge deficit, oil prices going down, and I guess the question is, if Canada is going to continue to be a major economic force, some of the onus is going to come back on Ontario with our advanced manufacturing economy. And if that's going to happen, we're going to need the tools, and I'm thinking in terms of the infrastructure that will be required to operate a largely manufacturing economy. Certainly, the kind of advanced manufacturing that we're going to be looking for will be taking a hard look at the quality of our transportation system, and they'll be looking at both people and goods movement when they make those decisions.

We've spent a lot of time at the gateway council—and by the way, I'm probably going to get you back on time here—over the last seven years studying congestion in southern Ontario. The one thing that's very clear is that there will be no single solution to the problem. One piece of the puzzle clearly is transit. We have long supported the efforts of Metrolinx through the Big Move to divert more traffic to public transit.

What we worry about is when we're here sometimes is that we hear people talk and there's a tendency to think about the Big Move in the context of it is the only solution, that if we just throw enough money at transit, the problem is solved. But even in their research, Metrolinx tells us that with the Big Move fully implemented and fully funded, automobile trips in the GTA will go from 2.1 million to 2.6 million in the next 25 years. That's a 25% increase. The Big Move is going to help us keep pace, hopefully, with the growth in population, but we need other tools as well in terms of goods movement infrastructure and obviously—let's use the word—that means some road construction.

Nobody's ever thinking about a massive 1960s type of highway program. Those days are gone. The money's gone. The public will for that sort of thing is gone. We think there are strategic gaps in the network—key gaps—that need to be filled, and I'll give you an example. The 427 north of Toronto comes to an end about five kilometres south of the CP intermodal terminal at Vaughan. That rail terminal handles about half a million freight

movements a year. The result that we have right now—and if we were out there right now, we'd be looking at a mess of traffic, hundreds of trucks exiting the 427 and then trying to make their way along arterial roads, left turns with these great big rigs, and it's creating an intolerable conflict with commuter traffic. So five kilometres of road would have a huge impact on traffic and safety northwest of the city. That's what I mean when I'm talking about strategic investments.

A larger project that would have a huge strategic impact is the Niagara-to-GTA, which is virtually dead, and the GTA-west project, which is somewhat less dead. In the case of the Niagara-to-GTA, a decision was made to continue widening the QEW and other 400 series highways instead of conducting a new redundant corridor that would connect the GTAH and points west with our largest trading partner. Without some redundancy in some of our major arteries, we run the continual risk of interruption and delays on our road system that many traffic experts—I'm referring to the QEW here. Many believe it's already overbuilt and we're widening it again. The decision to do that was made in spite of expert opinion within MTO that said such a route would be required sometime around 2031.

The real thing here is, we're never going to solve our gridlock problems if we can't engage in long-term planning. Part of the solution will involve creation of a dedicated transportation infrastructure funding envelope that will serve the needs of both the movement of people and goods. So, we support the Big Move, but the fact is that the funding tools for the Big Move will absorb much of the tax headroom that we think is left in the province.

**The Chair (Mr. Bas Balkissoon):** You have 10 seconds left.

**Mr. John Best:** I think that's really my presentation, Mr. Chairman, other than to say that just as we must invest in transit, we mustn't lose sight of the need for continued investment in the goods movement infrastructure. Thank you.

**The Chair (Mr. Bas Balkissoon):** Thank you. The government side.

**Mr. Kevin Daniel Flynn:** Mr. Chair, I'm going to share my time with my colleague next to me. But the one question I had, John—and thank you for the presentation; it was interesting. I drive the QEW daily and anybody who says that it was under capacity, I'd be hard-pressed to get agreement from anybody I'm sitting next to in the morning. But that being said, I know that often I share the road with a lot of trucks. I know I've got to be here at 9 o'clock in the morning, and I often wonder—I think other people wonder—that the goods on those trucks that are travelling through Toronto at rush hour, if they really have to be somewhere at 9 o'clock in the morning? Do trucking companies ever plan their routes around peak periods, basically? Because you're talking about expanding the 427, which I think is a good idea. The problem is, when they get down from the 427 to the 401, it's turned into a parking lot. Often I, as a commuter, am sharing that parking lot with a huge number of trucks. Are your

members doing things like trying to run at night, trying to run in the evenings, that type of thing?

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**Mr. John Best:** Yes. There's a lot more night delivery going on. Some of it is just not possible, but certainly, the industry is very open to the idea of off-peak hours. What that does, of course, is that when you're making a delivery to a customer, it forces him or her to also have somebody there to receive the goods, so what you get into is adding employment costs at the receiving end. It's something that, certainly, Mr. Bradley from the OTA would tell you that they're very open to, and they're trying to implement it where they can. Some of those trucks, as was said earlier—in fact, I think you said it, Ms. Cansfield—are simply moving through the area. But yes, the industry is open to that.

**Mr. Kevin Daniel Flynn:** A very small question; all I need is a brief answer: Do you have a target you're aiming at? Are you trying to reduce your own truck use on the roads by 25%, by 50%? Is there any quantifiable target you're aiming at?

**Mr. John Best:** There's no real target, because we, of course, don't see goods movement as a problem. We see it as an enabler of the economy in Ontario, so we don't see ourselves as a problem to be erased. That's why we're so much in favour of the transit solution, because whatever takes cars or any kind of vehicle off the road will reduce congestion and—

**Mr. Kevin Daniel Flynn:** What I meant was shifting to off-peak hours, not erasing truck traffic.

**Mr. John Best:** There's no formal strategy. Trucking companies are very organic. They do what they have to do to get it done.

**Mr. Kevin Daniel Flynn:** Thank you.

**Mr. John Best:** And when customers say, "Let's do it at night," they do it, but the problem is that there are depots that require—with just-in-time delivery, there is tremendous pressure on these truckers to be just in time.

**Mr. Kevin Daniel Flynn:** Thank you.

**Mrs. Donna H. Cansfield:** Thank you, John. Nice to see you.

**Mr. John Best:** Nice to see you again.

**Mrs. Donna H. Cansfield:** I'd like to talk a little bit about the intermodal and the issue around using the H2O highway—that's part of the southern gateway initiative—because it really would get goods up to northern Ontario, not in the just-in-time, but certainly certain kinds of goods. There aren't as many truckers available to drive those big rigs as there were in the past, and you've got the issue of the congestion as well. That leads into looking at transportation congestion from a variety—from air, rail and ships as well as just dealing with congestion on the roads, more intermodal and looking at the hubs. I'd be interested in how you're progressing with that concept.

**Mr. John Best:** There has been some significant progress. ArcelorMittal, one of the largest users of the seaway already for raw materials—as you know, they're

now integrated with the company that has mills all through the United States.

Raw steel was barged across Lake Erie last year. They set up a short-sea shipping operation, and they did it not because they were being pressured; they did it because it made sense. Many of these transportation solutions on the goods-movement side, they take place because they make sense.

**The Chair (Mr. Bas Balkissoon):** You have 30 seconds.

**Mr. John Best:** CP Rail—there's a train leaving the Milton area every night, loaded up with truck trailers going to Montreal, so every one of those rigs that's on that big, long train is taking a truck off the road. There are three or four of the biggest transport companies in Ontario currently using that as a relief system.

**The Chair (Mr. Bas Balkissoon):** Thank you very much.

**Mrs. Donna H. Cansfield:** Thank you very much.

**The Chair (Mr. Bas Balkissoon):** We'll now move to the official opposition.

**Mr. John O'Toole:** Yes, thank you very much for your very balanced approach and realizing, "It's the economy, stupid," really, basically—not you, but me. It really is about that. There would be nobody coming anywhere if there was no economy.

You talked about the importance of the options and the various modes with transportation, which is a very reasonable presentation. I liked the fact that you stated categorically that transit is not the only solution, because basically what all the chatter is about now is the transit option. Transit is important. I would say that; I'd 100% agree with that. I just came back from Hong Kong, three weeks there. I have a daughter who lives in Hong Kong. There's a smart card, and you can buy a newspaper or a coffee, pay for parking, and pay for the ferry or whatever else. That's a smart card. You reload it at the Mac's Milk. You understand? We've got this Presto argument going on; it's just absolutely hideous. And we're going to spend a lot more money on that stuff, building the integration of transit—that is, the TTC metro transit with Viva and all the other systems—the systems, which have this bureaucracy that says, "No." "Yes." "Our fare." "We don't bridge." Hazel's system, between her and Mel Lastman, like 10 years ago—do you follow me?

**Mr. John Best:** Yes.

**Mr. John O'Toole:** This discussion on the economy is very important. The multimodal—using our lakeshore, using the waterways across the lake etc.—is missing from this discussion on gridlock and the economy.

What they're looking for—and I'm going to ask that as a question here. What we really need are permanent funding tools. I bridged it modestly today about—

**Mr. Mike Colle:** So you're saying taxes.

**Mr. John O'Toole:** Yes. Well, these are funding tools and we need to have a conversation about this.

**Mr. John Best:** I've heard that expression before.

**Mr. John O'Toole:** Yes, but I'm just leaving it to you, then. And they're so vague or obsequious in terms

of delivering what this is about. There's no more revenue left in my pocket. I'm already taking GO. Do you understand? I'm not like Mr. Flynn; I can't afford the car anymore.

*Interjections.*

**Mr. John O'Toole:** No, I can't afford it because they're going to tax it more.

I have a daughter who lives in London as well—England. They live in Seven Oaks, in Kent—a wonderful train ride right down beside Westminster. It works. It has taken about 100 years to do it. But you'd have to be rich to drive into London, and that's how it's going to be here. You're going to have to be rich, with a Bugatti or some kind of expensive vehicle, with a chauffeur, to get into Toronto.

**Mr. John Best:** Well, that truckload of televisions will still have to come into downtown Toronto—

**Mr. John O'Toole:** Exactly right.

**Mr. John Best:** —to drop them off at the condos.

**Mr. John O'Toole:** Where are they going to get this new revenue from? I'll just throw it back to you.

**Mr. John Best:** Somebody was asking what the public thinks about the revenue tools that were announced. I see the Star did a survey. The most popular one is a parking levy; although I think the guys at these shopping malls, when they find out they're going to be asked to pay as well—fuel tax, payroll tax, sales tax are all ranking in the 20% approval, and those are the ones that are going to raise the money that we need.

If I was a federal MP sitting here right now, I'd say we walked away from two points on the HST two years ago, or a few years ago, and perhaps the time to take that up would have been immediately. It's going to be a tough sell.

**Mr. John O'Toole:** They want to have dedicated revenue, and I kind of agree with that, if you can find out—

**The Chair (Mr. Bas Balkissoon):** You have one minute left.

**Mr. John O'Toole:** —where the revenue actually goes.

The parking was tried by the NDP government when they were in government. It was called a concentration tax, which was a tax—

**Mr. Rosario Marchese:** We got rid of it.

**Mr. John O'Toole:** But the point is, this is going to be an interesting discussion. The talk is important. I put to you that it is the economy.

I talked to Dave Bradley, from the Ontario Trucking Association. They're away at a conference right now. We need to have a serious discussion about this, because you're right, gridlock is a \$6-billion drag—that's what they're saying, anyway—and the whole cost of infrastructure, the \$50 billion, is new money. It's not current, moving-around money; it's new tax—

**The Chair (Mr. Bas Balkissoon):** Thank you very much.

**Mr. John O'Toole:** This is a significant problem.

**The Chair (Mr. Bas Balkissoon):** I have to move to the next questioner, the third party.

**Ms. Sarah Campbell:** Thank you for your presentation. I have a couple of questions for you. My first question is, in addition to high-volume usage, would you say that regular road closures and slow traffic as a result of accidents and poor road maintenance, all of which drastically would reduce the profitability of transportation and people in the transportation business—would you say that those contribute to gridlock?

**Mr. John Best:** Absolutely. I mean, part of our challenge here—if we never build another lane of new road from here on, we have an enormous highway system that needs to be kept in a state of good repair. Nothing can get stretched more easily than infrastructure maintenance budgets. Municipalities are doing it. Absolutely. I mean, if a road is in such a state of repair that vehicles are either slowed or accidents are being caused—I’m not sure if you have a specific road in mind. Absolutely, it’s a problem.

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**Ms. Sarah Campbell:** Thank you. In some areas of the province—in particular, I’m thinking of northern Ontario—there is only one route available. There are no other routes. Would you say that in order to prevent gridlock in northern Ontario, we would need to take steps to ensure that alternate routes are available, whether it’s public transportation or the investment in roads?

**Mr. John Best:** Gridlock needs to be attacked wherever it is, but I think what you’re going to find is that it’s going to be prioritized against where the need is greatest, where the population is greatest, where the traffic patterns are greatest. I think that’s kind of the pecking order that a project in northern Ontario, against perhaps a proposed project in southern Ontario, will face. I don’t know how government allocates funding, but I presume it’s a notional allocation based on population more than anything else.

**Ms. Sarah Campbell:** I’m not sure if you’re aware, but the Trans-Canada Highway, when it passes through northern Ontario, is the main highway that connects our country from end to end—

**Mr. John Best:** Highway 17, or—

**Ms. Sarah Campbell:** Yes, that’s correct. It’s only a single-lane highway. There are no other routes. What we have seen, time and time again, is that there are a number of road closures, especially in the winter months, as a result of poor road maintenance. It’s dangerous for the transport drivers. There are a number of accidents that involve—unfortunately, there are fatalities. So I’m wondering if you think that this is adequate, this single lane, to meet our transportation needs, especially as it relates to the movement of goods.

**Mr. John Best:** Well, when I talk to truckers, they definitely will talk about—I mean, truckers don’t like two-lane roads anywhere. The fact that we go through a large piece of Canada on a two-lane road is not an optimal situation. The question is, to make it a four-lane road over hundreds of miles is a hugely expensive prop-

osition. That funding has to sort of put itself in the queue with other funding.

The United States has a wonderful system of highways that run across sparsely populated areas, but I think we missed that boat 40 years ago.

**Ms. Sarah Campbell:** In your opinion, would it be appropriate to charge a road toll in those areas where they’re serviced only by one road and it’s not a matter of an alternate road providing a more express route?

**Mr. John Best:** I think that we have to look at new highway construction. I think we have to look at road tolls as a possible way of funding new highway construction.

Tolling an existing road, I think, is going to be very unacceptable to the public. Now, whether you could argue that taking a two-lane road and making it a four-lane road—if the toll was modest enough, you might be able to sell it. I don’t know.

We certainly can’t have toll roads that are charging the kind of tolls that are on the 407 ETR.

**The Chair (Mr. Bas Balkissoon):** Thirty seconds.

**Mr. John Best:** They would have to be competitive with something like the New York thruway, where the toll is low enough that it’s still acceptable for goods movement.

**Ms. Sarah Campbell:** And do you have any suggestions of how we can raise the funds that are necessary to pay for roads?

**Mr. John Best:** I don’t know. What is the government spending these days—\$120 million, roughly? And we’re looking at \$1 billion, \$2 billion—

**The Chair (Mr. Bas Balkissoon):** Thank you very much. I have to move on. Thank you very much for being here, and thank you very much for presenting.

**Mr. John Best:** Thank you.

#### CANADIAN AUTOMOBILE ASSOCIATION

**The Chair (Mr. Bas Balkissoon):** The next deputant is the CAA. Elliott Silverstein? You have five minutes for a presentation, and then we’ll resort to questions from each party, five minutes each.

**Mr. Elliott Silverstein:** Thank you, Mr. Chair, and members of the standing committee. My name is Elliott Silverstein. I’m manager of government relations at CAA South Central Ontario.

Advocating on behalf of members since 1903, CAA is a not-for-profit auto club with 1.9 million members in our territory as far west as Windsor, north to Sault Ste. Marie, and east to Kingston.

Advocacy is at the origin of CAA, from lobbying for the construction of the Trans-Canada Highway, to introducing seat belts in all vehicles, and distracted-driving legislation.

Today we continue to advocate on behalf of members and the motoring public at all levels of government. But our members are not just motorists. They’re cyclists, and they use public transportation systems, and they understand that the importance of an integrated transportation

system, regardless of the mode that one travels, is critical.

Ontario is consistently recognized for having safe roads, yet commuting times are rising, and it is anticipated those commutes will only increase. We know the challenges that face us: increased gridlock, the need for a regional and integrated transportation system, and the improvement of the conditions on our road network.

My comments today will touch on several points: dedicated funding, a balanced transportation network, intelligent transportation systems, the balance between business and consumers when it comes to revenue generation, and regional solutions.

There's little argument that solutions are needed. CAA has repeatedly advocated for improved road infrastructure across the province, an issue illustrated each year in our Worst Roads campaign.

CAA has also shown its support for the expansion of road networks; for example, supporting the extension of the 427 north to help alleviate congestion issues in the Brampton and Vaughan areas.

From a transit perspective, CAA is excited at the TTC expansion into York region, providing greater access and alternatives for countless 905 commuters.

The GTHA is in need of an integrated and regional transportation network. With Metrolinx soon releasing its recommendations, it is imperative that any funding for the Big Move is not only dedicated, but there is a fair balance to ensure that consumers are not disproportionately charged through any revenue streams.

One subject not emphasized heavily in the Big Move is cycling. CAA has been active with cycling through its Watch for Bikes program, along with its Bike Assist services and an ongoing working relationship with Share the Road Cycling Coalition. With numerous municipalities investigating and incorporating cycling infrastructure, it is a critical element of a balanced transportation plan.

CAA is concerned with the prospects of a second gas tax levied on gas and diesel sales to pay for road or transit infrastructure for a number of reasons. First, the gas tax is not dedicated to infrastructure initiatives right now, and it is difficult to accept prospects of an additional levy when the government has yet to earmark these funds to road infrastructure improvements. Secondly, the way the gas tax is structured today, the HST is applied on the price of gasoline. That includes the 14.7-cent-a-litre fuel tax. As a result, motorists are in essence paying a tax on a tax.

CAA's position on dedicated funding is long-standing. Two years ago, we urged the province to direct a portion of revenue generated from the HST charged on gasoline and diesel sales to a predictable funding mechanism. We recently conducted a survey with nearly 5,000 members, and the results were conclusive: 72% of respondents agree that the source of funds for new and expanded transportation should be shared among businesses and consumers. Similarly, 88% of respondents said any new money generated and collected for transportation should be dedicated to infrastructure projects. There is a distinct

lack of dedicated funding, something that is critical and overdue for transportation projects, especially with the announced need for \$2 billion over the next 25 years to pay for the Big Move.

It's critical that this issue not be examined solely at a macro level. For consumers across the region, addressing the impact of this conversation must be done at a micro level. The one question not asked enough is, what will the cost be to consumers? It appears that consumers are going to be asked to pay in a number of ways. Methods recommended by Metrolinx in late May could include HST applied to existing and potential fuel taxes, and businesses downloading costs onto consumers.

CAA's concern is that the approximate cost per consumer could be around \$1,000 annually. That's a significant amount of money for individuals who may not receive salary increases equal to or greater than that amount each year.

Here's a quick analysis of some of the options suggested. For example, a regional sales tax of 1% could cost a household around \$600 annually. A high-occupancy toll lane, which is a voluntary choice by individuals, at 30 cents a kilometre, is something that one could choose to opt in or opt out of. A parking levy of \$1 per day could be conceivably offset on consumers by businesses. Lastly, a fuel tax of 10 cents a litre on a 60-litre tank, filling up each week, could cost a consumer about \$312 annually.

While CAA recognizes that consumers—drivers included—will need to pay to help fund Big Move projects, it is critical that a disproportionate burden not be put on consumers.

**The Chair (Mr. Bas Balkissoon):** You have a minute left.

**Mr. Elliott Silverstein:** Thank you.

Ontario has consistently been recognized as having some of the safest roads in North America. While Ontario serves as an excellent model for other jurisdictions to follow, the province does seem to be plagued by gridlock and challenges in some key sectors.

Traffic congestion has reached critical proportions. It is vital that we improve our transportation infrastructure to meet escalating demand. In addition, the daily commute is stressful. Gridlock is hurting our health, family well-being and productivity. Improved mobility and decreased congestion benefit us all, yet finding a balance to not only disproportionately charge the consumer is also critical.

Establishing a dedicated fund now is not only a gesture of goodwill, but it provides an element of public confidence that once revenue tools are determined, the money collected would be earmarked into a specific account.

Thank you.

**The Chair (Mr. Bas Balkissoon):** Thank you. We'll go to questions. The official opposition.

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**Mr. John O'Toole:** Thank you very much for the presentation. My colleague Jack will probably share a couple of minutes here, too.

I like to tell people in my riding when they complain about the price of gas, which is always a chronic issue, that when they implemented the HST in Ontario, that cost 10 cents a litre. The price of gas went up 10 cents a litre because of HST—that one move. Now it's my understanding they get about \$2 billion to \$3 billion in revenue from the HST. This is new revenue on things that prior to that were not taxed as a consumption tax. What's your response? Because I know that the CAA did a lot of work on that. I'll just leave on that note.

**Mr. Elliott Silverstein:** I don't have specifics in terms of what the actual generation of revenue has been since July 1, 2010, but certainly, you're right. With the HST being included, new revenue has come in and it's a new source of revenue and one that could have been allocated early on. We called on the government to do it at that time. That said, it's never too late.

We think that if gas taxes are under consideration—twofold: Number one, a tax on a tax, so you're collecting tax on the application of another tax, but also let's make sure that it's going back into the area that it was collected from. If it is coming from gasoline, then it should be put back into roads and transit infrastructure. So we believe that if gas prices are going to be at this rate, it should be going back into it so it's a net positive.

**Mr. John O'Toole:** Would you forecast that would be dedicated revenue to the transit challenges—\$50 billion to \$80 billion of new revenues required for these solutions?

**Mr. Elliott Silverstein:** Certainly an additional gas tax is something that CAA is looking at. I'm not in any way saying that we endorse that particular item, but any revenue that is collected should go back dedicated—that it's not going to general revenues.

**Mr. John O'Toole:** Okay. Jack?

**Mr. Jack MacLaren:** My question is, more money is needed, and the government doesn't have more money. Would you be supportive of the idea of private sector money coming into play for things like—well, everything that Toronto needs: subways, trains, highways—as well as where there's a need for highways across southern Ontario for automobile traffic in general, if it was an appropriate thing to do? And it is an appropriate thing to do because of that money shortage—which would result, of course, in toll highways and toll everything, I guess. Could you comment on that?

**Mr. Elliott Silverstein:** Sure. In terms of a P3 structure when it comes to public transportation, I think that right now as we're looking at the various ways to pay for things, all items should be on the table for discussion and consideration.

When it comes to highways and roads, I think that the biggest item from our perspective is that there needs to be consumer choice. If you're going to be putting in road tolls in a particular area on new infrastructure, there should be an alternative for people to drive so if they choose not to pay for it, they have an alternative means to get from point A to point B efficiently and safely.

**Mr. Jack MacLaren:** But in certain cases where there is an absolute need, say, for a road or a highway, and the money isn't there to build it, and the only way to have it would be to have a toll highway built by the private sector, would that not be better than no highway at all?

**Mr. Elliott Silverstein:** Well, again, it's something that's worth considering. As I said, right now there are a lot of discussions, and we want to try and see how there's a balance between businesses and consumers. Looking at alternative sources through P3s is something that I don't think should be taken off the table. That said, I think that each individual situation is unique and I think that we have to look at what the options are in those particular areas because if it's a situation where you're essentially putting in a toll where there's no other options, it could be something that could be considered punitive because there are no alternatives for those consumers.

**Mr. Jack MacLaren:** Well, it would be punitive if there was no road as well.

**Mr. Elliott Silverstein:** In theory, yes, but one would also suggest that at this point there probably is an option to get from those areas right now. Again, our position has remained that not only is it looking at new roads but it's also maintaining and enhancing the roads that we have right now. That's the other discussion that sometimes is forgotten in this entire dialogue: that we have roads that are in need of urgent repair across the province.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. We'll move to the third party.

**Ms. Sarah Campbell:** Thank you for your presentation. I wanted to ask you some of the questions that I've asked some other presenters. First, I wanted to start off with your definition of "gridlock." I'm wondering if your definition of gridlock includes fairly regular road closures, slow traffic as a result of accidents and poor road maintenance.

**Mr. Elliott Silverstein:** I think those are all catalysts to some of the problems of gridlock. I think gridlock is really the situation you face each and every day where there's slow movement in a particular area. Road closures certainly contribute to it, as do accidents. The hope is that accidents are cleared up safely and in a reasonable amount of time. Poor road conditions I think obviously in certain types of weather can inhibit that. Unfortunately, that's a necessary evil. If there's snow coming down, you're going to be stuck a little bit longer. If snow is not being cleared, it becomes more of a chronic problem. Certainly, I think those are challenges that we face sometimes. An accident is something that we cannot prevent, in the sense that if a collision happens and you're stuck behind that situation, you are going to be stuck there for a short period of time.

**Ms. Sarah Campbell:** In your view, is a single-lane highway along the Trans-Canada adequate to meet our transportation needs and to accommodate both business and personal use?

**Mr. Elliott Silverstein:** I think it depends on the areas themselves. I think some areas require larger roads, four-lane roads. Some smaller areas would require two lanes.

I'm not sure which particular area you're referring to, but certainly I think that if the needs require an expansion, right now, with the roads being relatively safe in the province of Ontario, if there's a need, there certainly should be an investigation to assess if that needs to go from two to four.

**Ms. Sarah Campbell:** In one of your previous answers, you talked about the need for choice when it comes to toll roads and the fact that there should be an alternative way to get from point A to B safely. I have some questions particularly relating to northwestern Ontario, where Highway 17 is a single highway—there are no other alternatives—spanning probably about 500 kilometres. In that particular instance where there is an existing road—we're not talking about a new road—and this is the only option, in your opinion would it be appropriate to charge a road toll in that area?

**Mr. Elliott Silverstein:** If it were to be contained as a two-lane road, I would suggest that our position would be that it should continue to be structured the way it is. If there was a desire to go to a four-lane road, potentially you could have a high-occupancy toll lane, much like they're considering through some of the proposals where you have a premium lane and you have a standard lane, where if you are driving as a single driver, you would be able to pay an additional portion for that additional service. Again, I'm not familiar with the particular area you're referring to, but certainly if it's a two-lane road and you're going to be tolling existing infrastructure with no alternative, it certainly is less favourable to the consumer than some of the other options that are being presented.

**Ms. Sarah Campbell:** Right, because people would essentially have no other option, if they were getting to and from work, than to pay a particular toll. This is sometimes people leaving their homes to get groceries, just the basic necessities of life, and there are no other options like public transportation. In a case like that, would you be supportive of a toll?

**Mr. Elliott Silverstein:** In those situations, certainly, a toll should be one of the last options. I think right now what you're looking at is, if there is a high-occupancy toll lane, it's where there is consumer choice. If we're looking at putting in road tolls, it should be on new infrastructure, not on existing infrastructure, for the time being, because we do have a gridlock issue. And if we're going to start tolling areas where the situation could become problematic because you may have—by putting in certain tools, revenue sources, it could actually do the opposite of what you're trying to achieve.

**Ms. Sarah Campbell:** Thank you.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. We'll move to the government side. Mrs. Cansfield.

**Mrs. Donna H. Cansfield:** I want to ask a couple of questions about your polling. Can you tell me how many people were polled, your margin of error and your distribution of the polling?

**Mr. Elliott Silverstein:** The polling that we've included in our presentation here was conducted through CAA members. It was conducted with just under 5,000 members; I believe 4,940, if I'm to be exact. I believe the margin of error was standard, about 3%. It was conducted in December 2012. I'm not sure if there was another question you asked as part of that.

**Mrs. Donna H. Cansfield:** No, that's great. The reason I was asking that question was, if it's all your members, it's across the province.

It's just interesting: Your conclusion states that traffic congestion has reached critical proportions. I think we've heard that from a number of folks. But if you go to the time spent commuting on weekdays, "About how much time do you spend commuting on a typical weekday?" 55% do a 30-minute commute. If you go to the amount of change in commuting time, it indicates that 42% say that increased, but that also means that 48% plus another 9% said that it had not increased, that it had remained the same, decreased a little or decreased a lot, with 4%. Then your last question, which is on page 10, "Do you think that introducing more road tolls on highways would make a major difference, minor difference or no real difference in reducing road congestion in Canada's major cities?" Interestingly, 39% said no real difference, 41% said a minor difference, so if you put those together, that's significant that people say that even if you put a toll in and more infrastructure, it's still going to be congested. So, then, my question to you is, if that's the case, what's the answer?

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**Mr. Elliott Silverstein:** Unfortunately—if I had the answer, I'd be passing it on to everybody that I know right now. But to be perfectly honest, I think part of the answer here is that when it is polled in a greater area, it helps provide insight in some areas that may have more or less gridlock issues, but also it's an indication that—you know, people know about the 407, and it's an express toll highway. It provides relative ease. If you were to put a toll road on some of the existing 400 series of highways, there is no guarantee that it's going to reduce your commute time in any significant way. It's not going to guarantee that in any way. If anything, if you were to put that on there, it may push people on to arterial roads.

At the end of the day, people may realize that it's not going to be same as a 407 and that it would actually be something more that you're paying for but not actually carving off any time from your actual commute. So that could be, in part, some of the answer if I were to look at that from that perspective.

**Mrs. Donna H. Cansfield:** Maybe, then, the question, if you have an opportunity to do the survey again, is additional or new roads—would that make a difference in commuting and would it make a major difference in road congestion, and would you pay something if it were on and dedicated to a new road as opposed to what I presume they think is an existing road and a toll on that road. I appreciate that. Thank you very much.

**Mr. Elliott Silverstein:** Thank you.

**Mr. Kevin Daniel Flynn:** Thank you, Elliott, for being here today. Thanks for the presentation.

The CAA, I think, has long been looked at as an honest broker, as a very strong advocate for the motoring public, so let me say from the outset that I think it's excellent to see you putting forward the idea of a partnership with the cycling community, that we need to pay attention to cycling, because perhaps that partnership didn't exist in the past, and it should exist in the future. That, I think, is really positive.

Now, for a long time, your organization has been a strong advocate for having this discussion. I think you could probably look at all three parties as having ignored you in the past when you've asked those questions, that a discussion take place. And this Premier now, the new Premier, is saying we need to have this discussion and is not letting people back away from the problem the way that other governments have in the past and other parties have in the past. How does the CAA keep this momentum going? There seems to be an interest. It's got a profile it didn't have before as an issue. How does the CAA keep that going?

**Mr. Elliott Silverstein:** From our perspective, what we're doing right now is really focusing on having the conversations with government, with stakeholders and the general public, with our members.

I think a lot of the discussion right now, as I mentioned in my presentation, is that it's a very macro discussion, \$2 billion every year, but I think the discussion really needs to be turning to the households across Ontario, across the GTHA, and saying, "What is it going to cost me, and what do I need to understand about what the future costs are going to be?" I think CAA has a definite opportunity to really provide that type of context to its members and provide that type of information to government and express what some of our members are saying, because at the end of the day, these are the individuals who are going to be opening up their wallets and paying, potentially, for various revenue sources, whatever Metrolinx determines, and move forward from there.

**Mr. Kevin Daniel Flynn:** So you see yourself as a partner in this process?

**Mr. Elliott Silverstein:** I think we are a strong advocate that certainly can help provide information and hopefully provide some solutions and communication to our members and to the general public.

**Mr. Kevin Daniel Flynn:** I would agree with that. Thank you very much.

**The Chair (Mr. Bas Balkissoon):** We have to end the questioning here. Thank you very much.

## CHIPTAG

**The Chair (Mr. Bas Balkissoon):** We'll move to our next presenter: ChipTag, Abdul Haseeb Awan. You have five minutes to present and then we go to questions, five minutes from each party—and if you could introduce your guest.

**Mr. Abdul Haseeb Awan:** Hello. I'm Abdul Haseeb from Ottawa, Ontario.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. Please continue.

**Mr. Abdul Haseeb Awan:** I'm Abdul from Ottawa, Ontario, and this is my partner, Saif. We are from a start-up called ChipTag, and we are addressing the most common problem with parking, because 94% of the time the car is parked. What we are trying to address is how people can spend more time on the road.

I'd just like to address and tell you a couple of numbers, because numbers speak louder than words. The number is, there's much less traffic congestion on highways than downtown, and up to 74% of the traffic in downtown is due to people searching for parking; or when they park, they have to go to a machine, take a ticket, come back, keep the ticket, go back and do whatever they have to, which takes up to four to five minutes for every car to be parked. So what we have suggested is that we should have a sensor-based technology that can automatically pay for parking, which will reduce the operational costs for the city of Toronto and the city of Ottawa to operate—and, obviously, spending five minutes less for every car on the street and off the street.

Talking about the numbers, as I said, up to 74% of the traffic in downtown is for parking, and every car spends up to one mile every day just searching for parking. So what do we do? We have developed some sensors that go on the car, and they go on the street too, so people can know where the traffic is heading towards, and you don't have to walk to a machine to pay for your parking. All the process that takes up to four to five minutes is reduced to 15 seconds. You don't have to look around for parking; you can go on your mobile. And the city of Toronto can get all the statistics of where the parking habits are going. That's all what we do.

Just to introduce how our sensors are, they're this tiny. They can go on any car, and it costs very less money to deploy. And the best part about it is, the city doesn't need to invest any money in it. It would be an all-private-based project that could go into existing parking spots. We guarantee you a saving of at least 1% every year on the parking spots. There are around 17,000 parking spots in Toronto. Multiply that calculation, and that can go into all the city of Toronto's operational costs.

That's pretty much what we have to say about what we do and how we can improve the parking system.

A few other numbers: 90 minutes are spent on parking on checkout. When you go into parking downtown, you have to park in underground parking. You spend 90 seconds on parking. Four minutes are spent on paying by machine. Three minutes are spent on paying by phone. Four minutes extra are spent for street parking. Now, multiply all those numbers by the amount of cars on the street, and you get your number.

Congestion: Interestingly, if you reduce the number of cars by 10%, you reduce the congestion by 25%. So it's like an exponential increase in whatever we do.

There are other sources that we can do in order to reduce congestion. We can have a very high mass public transit, or we can build new roads. We can introduce congestion pricing, like in London. We can do a lot of stuff. We can increase the parking costs by double so people are afraid to—but all those numbers add up, and overall there's a decline in economy for introducing all those things. And it requires a lot of educating.

So my question here and my appeal to all of this is, if the public sector is willing to contribute and bring in, and we can show that we can reduce operational costs by numbers and by demoing, that should be applied. That's all.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. Let's start the questioning with the NDP.

**Mr. Rosario Marchese:** Abdul, you don't have anything written; correct?

**Mr. Abdul Haseeb Awan:** No.

**Mr. Rosario Marchese:** Have you made presentations before to different groups or municipalities, or is this the first time?

**1650**

**Mr. Abdul Haseeb Awan:** I have done them.

**Mr. Rosario Marchese:** But you never distribute any paper—

**Mr. Abdul Haseeb Awan:** No. They asked us if we want to, or if you don't want to—

**Mr. Rosario Marchese:** I see.

**Mr. Abdul Haseeb Awan:** It was supposed to be a teleconference before.

**Mr. Rosario Marchese:** Yes. I recommend that it's useful to do that, by the way.

**Mr. Abdul Haseeb Awan:** Okay.

**Mr. Rosario Marchese:** Let me understand: This chip, it helps to reduce the amount of time that one takes to find parking?

**Mr. Abdul Haseeb Awan:** It tells you where the parking is, and it tells you to pay and it reduces the time to pay for parking.

**Mr. Rosario Marchese:** So it tells you where, and what's the second part?

**Mr. Saif Altimimi:** I'll just walk you through the actual product itself.

**Mr. Rosario Marchese:** You can speak through this mike here. It'll be a lot easier. And give us your name because they need to know your name.

**Mr. Saif Altimimi:** Yes. My name is Saif Altimimi. So, the way that it works is, basically it's a little chip you put in your car. It's an RFID chip. You go to the toll, it would automatically open up, and then when you go to the parking lot, the timer will start. So let's say you're there for two hours, the charge will come to two hours; your credit card will be attached to the actual chip beforehand.

What we're doing is, we're deploying the software to private parking currently where they have their own cloud-based software. They can actually determine who's coming in, who's coming out, and payments are automatic. So there's no more coming out, getting a ticket,

you know, putting it back in there. That's a waste of time, and our solution is, we're saving parkers time and, therefore, saving the city—congestion time will be reduced because of this solution.

**Mr. Rosario Marchese:** Right. So let me ask you, have you gone to private sector people? Have you gone to any city anywhere to—

**Mr. Saif Altimimi:** Yes.

**Mr. Rosario Marchese:** What do they tell you?

**Mr. Saif Altimimi:** Currently we have three lots in Ottawa that are deploying the software. Right now, we're in beta, so our first version of the software—the iteration of our product is being deployed at these three lots over the next three or four months. That's the current stage we're at right now.

**Mr. Rosario Marchese:** And those three lots, are they privately owned or are they city—

**Mr. Saif Altimimi:** Privately owned, currently.

**Mr. Rosario Marchese:** Have you gone to any city to discuss this idea with them or—

**Mr. Saif Altimimi:** Not currently, no. We're looking for feedback, you know, advisers to help us get into the city, but right now it's really—we're focusing on the private sector currently, but we find our solution to be really beneficial as a city-wide solution. I mean, there's a lot of wasted time when it comes to parking, and ChipTag can really solve this issue for both the parkers, private parking, and also the city itself.

**Mr. Rosario Marchese:** It seems like a very interesting idea to pursue. This is not the committee for it, I don't think, but it was good to hear about your idea. I think cities might be interested, but I don't really know how they deal with that. But if there's a way to save people's time and cut down on how much people have to drive around and waste gas to do that, it seems like something that they might want to consider.

Good luck.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Do you have any additional questions?

**Mr. Kevin Daniel Flynn:** Thanks for the presentation. It was interesting. Is there a scalability to the project? Do you need a minimum population? Does it only work in a centre like the city of Toronto or can it work in a community where the population is about 200,000? The parking demand obviously is a lot less, but there still is a parking demand.

**Mr. Abdul Haseeb Awan:** Oh, it can work from 50 spots to anywhere we want. So we can easily deploy it to a population of 200,000 people. Since we are all bootstrapped—like we have been part of a couple of start-ups, so it's all our money—we are deploying it at small locations so we can test it out and make it rock solid. But it can be deployed anywhere.

**Mr. Kevin Daniel Flynn:** Okay, because I'm thinking what I'd like you to do is make this presentation to the mayor of my community—

**Mr. Abdul Haseeb Awan:** Sure.

**Mr. Kevin Daniel Flynn:** —and see what he thinks about the whole thing, because obviously I think Mr.

Marchese is right. It's not a decision for this committee, but it certainly is of interest to me and—I don't know—I would imagine the city of Toronto. But the least I can do as a member, if you get this information to me personally, I'll make sure it gets into the right hands in my community of Oakville.

**Mr. Abdul Haseeb Awan:** Sure.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. Mr. O'Toole.

**Mr. John O'Toole:** Thank you very much. Two innovative young fellows, and I commend you. I think it's a very important idea. I can see it on my iPod—well, my BlackBerry—as an app. I'm going into Toronto to the Hummingbird Centre and it'll tell me where to park. Its time is almost here and passed, if you will. But more importantly, it's a transponder. Is this similar to the technology on the 407?

**Mr. Abdul Haseeb Awan:** Very much similar to that technology.

**Mr. Saif Altimimi:** Yes—

**Mr. John O'Toole:** Exactly.

**Mr. Saif Altimimi:** E-ZPass for parking—

**Mr. John O'Toole:** So having a systems background for 20 years, I can see it. Now, what the future of this really is, there's going to be a tax called VMT. If you're reading anything on this thing, it's going to be vehicle miles travelled. That's what it's going to be. That's what they're going to end up with and so—

*Interjection.*

**Mr. John O'Toole:** No, it's the answer, if you're reading any of the material on this. And this transponder would be very helpful. You may be on a gold mine here. If I left from Durham, it's vehicle miles travelled, and they could set rates, like a smart meter at your house for electricity. If you leave at 5 in the morning, it's two cents. If you leave at 7 in the morning, where it's really busy, it's 10 cents. That's where we're going. It's just not there yet, and we're all talking around these new tools—we're having a conversation on it.

But I commend you. I think it's important to—perhaps a more fulsome printed idea, without giving up your patent information, on the software side. I think you're on to something.

In London, England, they have a similar system. You get billed the day you drive into London. It's at your house, and if you don't pay it, you get fined. They link it to your credit card, and it automatically pays the £35 to drive into London. That's a nice bit of change.

The only way you can get into London now is if you're in a Rolls-Royce, basically. If you're not rich, you're not going. You're taking transit. That's what Toronto is going to have to do, because there's going to be no place to move. Pedestrian-friendly, cycle-friendly—and slow-moving vehicles will be allowed.

We're just chattering now. Good idea; I commend you.

**Mr. Abdul Haseeb Awan:** The best part about the 407—we manufacture hardware and software in Canada, so we have reduced the pricing deployment cost to a very

low cost. As I said, we can bootstrap and deploy it in one of the cities by our own cash, which means that city doesn't have to spend any money. We can tell you the number beforehand: "This is the number that you will be saving, in terms of transactions."

**Mr. John O'Toole:** If you could tie this into intelligent transportation systems, ITS, you could actually manage what roads you're able to tack on, and if the road is really busy, you can manipulate the fees and the whole deal. You're on to something that's going to be part of the future solution of—now, if you want to favour commercial traffic—like, we have HOV lanes. What they should do is tax HOV lanes. Let single persons use those lanes. You pay a bit more for the licence you get.

These are the innovations that have to come forward. Doing the same things we've been doing for the last 30 years doesn't work. Yours is the first fresh idea I've heard today.

**Mr. Abdul Haseeb Awan:** Thank you.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much for your presentation. I believe, Mr. Flynn, you're going to give this young man your business card?

**Mr. Kevin Daniel Flynn:** Absolutely. If you'll contact me—

**Mr. Saif Altimimi:** Hopefully, we'll do that, yes. That would be wonderful. Thank you.

**Mr. Kevin Daniel Flynn:** Here's my card, if you'd like.

**Mr. Saif Altimimi:** Sure. Thank you.

#### SWEENEY STERLING FINLAYSON AND CO. ARCHITECTS INC.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Next is Carl Madsen, director of Sweeny Sterling Finlayson and Co. Architects Inc. Good afternoon, Mr. Madsen. You have five minutes for presentation, and then we'll do a rotation, sir.

**Mr. Carl Madsen:** Good afternoon. It's a pleasure to be here today, honourable members.

I think I'm here to move your attention. This is probably one of the most successful countries or provinces in the world, producing cars and highways and flying airplanes and doing things in technology—BlackBerry and all this. Congratulations.

This success means congestion, so congestion, I guess, is a good thing. I'm not teaching you a new thing. But I think this success belongs to past times and past generations. I'm speaking on behalf of the younger generation, you could say, from zero to 50. You'll maybe say from zero to 40.

The congestion solutions we are doing and fixing and ordering and helping on today may not really benefit that generation that much. It will benefit them. Nobody is opposing all the brilliant solutions being discussed here. I can hear it's all brilliant. I remind you, you're very successful. This legislation here is very successful. But it doesn't really apply to a new generation.

What is it that the new generation wants? I remind you of what you have in your pocket: small things. I'll just remind you that we started with big phones, then we had this size of phone, now we have this size and we will even go to smaller.

Probably there will be some sort of smaller vehicles than what we call a car today. These vehicles might be the ones which will be able to do inter-modular things for the future. If you think 50 years ahead and say, "The first 10 years, we will do all these improvements," whichever one of the ones we are talking about today, "but 50 years from now we still want our young generation, the ones who are 10 years old today, to grab this province, make it their own, build their own infrastructure, build their own vehicles and their own future," if you say it in a different way, if you start—and I'll show you with my hands—100 years ago and said, "We went"—in principle; it doesn't matter. Like the years are not right, but we had maybe trains and we had horseback and eventually the car, then we got to flying, planes. We have to do a new big step for the next 50 years, and that is up to you.

1700

What you can do is, you can legislate to allow smaller vehicles to be developed from young, new creative people. I'm not saying what it is because that's a discussion outside this meeting, but allow these to happen and they may be able to grab into our province or our suburban way of life, into our high-rise ways of transportation. It may go and compete with the way we are using the malls. It may grab into even northern Ontario, how we are moving around on lakes. It could be small electrical vehicles that make less noise, less pollution.

How much more time do I have?

**The Chair (Mr. Bas Balkissoon):** You still have two minutes. Keep on.

**Mr. Carl Madsen:** I think I'm here today to make a call. I've been debating how I should talk to you. I've worked on this for 35 years, and I'm not going to sum it up, but I think the call I'm doing is to the standing committee to open up this province for the new generation to come. That's it.

**The Chair (Mr. Bas Balkissoon):** That's it? Okay, we'll go to questions, and it's the government.

**Mr. Kevin Daniel Flynn:** Thank you for the presentation. You raised the point that when you look at our transportation system that we have today, it hasn't been impacted by technology the way that the rest of our life has. We used to travel in the last century on horses, on trails, and now I guess we've moved to motorized vehicles on roads, but we haven't gone, really, much beyond that, have we? It's very much that we don't have a smart-grid system. We still control our own vehicles and we still travel in pretty heavy, independent vehicles that spew out what some people would say would be an old form of technology.

**Mr. Carl Madsen:** Yes.

**Mr. Kevin Daniel Flynn:** What sort of opportunities do we have, do you think, to let technology assist us in building—I guess I don't want to build the world's best

typewriter because we don't use typewriters anymore. You kind of want to move ahead from that. You want to move ahead. Is the transportation system we're trying to redevelop the transportation system of the future or not?

**Mr. Carl Madsen:** I think that congestion—let me just say something completely different. This is not directly answering you. Congestion is a good thing. It's a sign of success. The transportation system we have is what we wanted. We want cars, we want trucks, we want airplanes. We have all that, and we have filled the roads. We are using them with their congestion. We are using them—they're not empty.

In the future, we have to be able to mingle more. We are not trying to transport a family of four from A to B on a picnic. We are individuals in small zones, living in small climate bubbles, moving from A to B. So the challenge is actually how to—and particularly in the Ontario climate where we have very cold winters and very hot summers, so basically all year long we want to be in a climate-controlled zone called a vehicle or whatever, house. But what we have to look at is that we want to move ourselves and goods in a whole bunch of modes, from planes to trains, from trains to smaller vehicles and so on and so forth. The integration of that is key. If you are capable of doing that integration the same way as the Germans have with DIN, the Deutsches Institut für Normung, because everybody is following—not all over the world but on a big scale. Ontario is a driver of car production and many pieces of production. If we want to take leadership, we just go ahead and legislate that the door into the train and into the airplane for the cargo, the door into houses, the size of the elevator, is integrated in smaller units and we start to do a system of how we do in inter-modular things, and start to think about how to do that.

What that will do is change the whole infrastructure of the country and the generation of people working on this 10 to 20 years from now maybe would be market leaders world-wide on this, if you want to do this.

**Mr. Kevin Daniel Flynn:** Very good, thank you.

**The Chair (Mr. Bas Balkissoon):** The opposition, Mr. O'Toole.

**Mr. John O'Toole:** Yes, thank you very much. I found your innovative approach to this quite futuristic and imaginative as an architect and well educated. I could see the future. I was at a conference this past week in Durham sponsored by a group of universities. It was looking at work in 2030. It was professors from Trent, Queen's, the University of Toronto and UOIT. They were talking about live/work, quality of life—kind of the stuff you're talking about. The question really raised is, why would somebody in 20, or even 10 years, working in banking or law be going downtown in Toronto? What on earth would they do that for? It came to the conclusion that it was basically for socialization and corporate culturalization, because it's all online. If you want to know what's the discussion today about the RBC issue, almost all of the IT support now is in Bangalore. If you really want to know the future you have to look at the

books called *The World Is Flat*, and Hot, Flat and Crowded, by Friedman. Take a look at his work.

The reason I'm putting this on the record is that that's the zone you're in. What's going to be done here in Ontario is what's actually done here. Because of digitalization, radiology, architecture and accounting, all that can be done in India. You know today that's what's happening. They send them a file with the building code for Toronto and, boom, they do all the drawings and you guys have to develop building codes and things.

**Mr. Carl Madsen:** Right.

**Mr. John O'Toole:** This is the future. I can't see the world of work being as it was. I don't see one transport barrelling the highway trying to catch another one. They should all have a RFI signal. They come into Toronto, they go into a zone, they all have the signal and they're just one big train.

**Mr. Carl Madsen:** Right.

**Mr. John O'Toole:** Like, what we're doing today is not the way it's going to happen in the future, period. We're going to spend zillions of dollars on transit—that's assuming someone is going to the Blue Jays' game, if they ever win of these or something.

**Mr. Carl Madsen:** Right.

**Mr. John O'Toole:** So I'm interested in some of your creative thinking. Just respond to that if you will. You know?

**Mr. Carl Madsen:** Yes, I will respond. I think that what you guys can do for us—and it's completely free—is to legislate, and do it right. All you have to do is to open up the roads for smaller vehicles, open up the roads for small, creative businesses who want to draw, design and build small, new, interesting vehicles. And do you know—

**Mr. John O'Toole:** Have you heard of the ZENN car?

**Mr. Carl Madsen:** Sorry, do you know how many people you have brought to this country, to this province full of ideas and hyper-educated? Do you know how many? Hundreds of thousands, and they need new things to do. These cars we are building now, and these trains we are building now, they're not really futuristic; they are of the day. So if we want to be on the forefront, we should go ahead and do that.

By the way, I worked on the General Motors climatic wind tunnel in UOIT.

1710

**Mr. John O'Toole:** Yes—oh, you did?

**Mr. Carl Madsen:** And I worked with General Motors in Detroit on this. For me, to see you guys supporting this—I think it's great, but it's not the future. As you say, we will not drive 100 kilometres per hour. We don't need that. We are driving 8 kilometres per hour in this traffic. We don't need a wind tunnel because the wind effect is nothing at that speed. But we are building, for \$100 million, a facility like that. It's not paid for by the province, all of it, but it's supported, at least mentally, by you. I think that what we have to do is we have to spread out and let the creativity come in.

I actually talked to the president of UOIT about 10 years ago—

**Mr. John O'Toole:** Tim McTiernan, yes.

**Mr. Carl Madsen:** It was another gentleman at the time—and told him that UOIT, which is a technologic university producing engineers producing cars, and even—

**The Chair (Mr. Bas Balkissoon):** You've got 30 seconds.

**Mr. Carl Madsen:** Ten seconds?

**The Chair (Mr. Bas Balkissoon):** Thirty seconds to finish his answer.

*Interjection.*

**Mr. John O'Toole:** Yes. Are you familiar with the ZENN car being built in Quebec?

**Mr. Carl Madsen:** Slightly, yes, I am.

**Mr. John O'Toole:** Zero emissions, no gas.

**Mr. Carl Madsen:** Right. I worked on cars like this in Denmark 20 years ago.

**Mr. John O'Toole:** It's not permitted in Ontario.

**Mr. Carl Madsen:** Right. We should permit it. We should permit driving and using interesting vehicles in Ontario.

**The Chair (Mr. Bas Balkissoon):** Thank you. We'll move to the third party.

**Mr. Rosario Marchese:** Thank you, Carl. Can I ask you: There are small cars on the market. Are you saying some of the smaller cars that are available are not good for the Ontario climate, that they don't have enough options for smaller cars? Is that what you're saying?

**Mr. Carl Madsen:** Yes. They are not small enough. They weigh several hundred kilos. Today, you can buy a vehicle for a heavy lady which is about 20 kilos called a wheelchair. It's very small. She will be transported from A to B finely with a small battery. These cars are of an ancient time.

I love Mercedes-Benz; don't get me wrong. I love smart cars; don't get me wrong, no. I'm just saying we have a ways to go. There's a lot more to be done. And if Ontario is not doing it, I can guarantee you somebody's going to do it. I just don't know who it's going to be.

**Mr. Rosario Marchese:** So a car like the 500, the Fiat car, that's too big?

**Mr. Carl Madsen:** Yes. Think smaller.

**Mr. Rosario Marchese:** You're looking at something that has, what, two seats? A two-seater kind of car?

**Mr. Carl Madsen:** No, no, I'm not an inventor. I can come with proposals, but I'm not going to hit anywhere close near where we're going to go in the future.

**Mr. Rosario Marchese:** But your point is that Ontario—and by the way, legislating is going to be very difficult in a capitalist market because a lot of people simply think that people ought to have the choice; and there are a lot of cultural things surrounding it, there are a lot of issues of whether you desire a little bigger car, and "Maybe I might not be able to fit into that" kind of attitude. There will be a lot of different questions that would arise out of it. But you're saying, if we want to lead this, governments should find a way to either give

incentives and/or to legislate the creation of small cars here in Ontario.

**Mr. Carl Madsen:** Yes. And you know if you go small, we can have smaller roads. If they are way smaller, the roads would be way smaller, so we don't have to maintain so much. We can get more tax revenue because we can decrease the roads.

When we build now, we are building 400, 500 square feet of basement, a full-height basement, for every unit to place a car, which is way too big—nobody cares—and we are driving these big trucks out of the city every day. And this is not only Ontario doing that. You know that that's China, everywhere. We're doing that everywhere.

**Mr. Rosario Marchese:** So, Carl, who is doing it in the world?

**Mr. Carl Madsen:** Here's the thing: I think the Asians will develop and think about doing cars and smaller units better than we do it, and they will produce it faster, but I think, actually, we have the comprehension to make it happen. Our cities are still small enough to make it happen, because if you look at Germany or Switzerland, successful countries, they have smaller cities than we have. Instead of building a big new New York here, we build Oshawa, Hamilton, you know, some sort of groups, like at London—that is exactly that sort of stuff. Between there, we leave some green lands with some food production, so that it's not too expensive to produce food and bring it to people.

Then we isolate the development and create smaller municipalities with their own ideas and their own power, and they compete. The city is going to compete, if you think that way. Then when we go to the smaller vehicles—right now, you cannot build a garage as part of your house. Why? There's fuel there, right? If you go to another sort of fuel—I'm not saying it should be hydrogen; it's worse. But with electricity or whatever, the car can drive right into your—it has seats already. You can use it as your dining room. And it probably has a TV already; you don't have to buy a TV. It's your house. You're driving around—I'm not telling you how the future is going to look—no, sorry; cut what I just said—but I'm just saying we have a way to go. It will change the way we are building and our whole building code.

**The Chair (Mr. Bas Balkissoon):** I have to move on. Thank you very much. Thank you for coming out.

**Mr. Carl Madsen:** Thank you.

#### GREATER TORONTO CIVICACTION ALLIANCE

**The Chair (Mr. Bas Balkissoon):** We will move to our next presenter: from the Greater Toronto CivicAction Alliance, Mitzie Hunter. Welcome. You have five minutes to present, and then we'll get into questions, five minutes from each party.

**Ms. Mitzie Hunter:** Okay, thank you. We have a letter that's being circulated.

**The Chair (Mr. Bas Balkissoon):** Yes. Go ahead.

**Ms. Mitzie Hunter:** Thank you very much for allowing me the opportunity to appear before you. I just want to say, on behalf of my chair, John Tory, that he would have preferred to be here in person; however, he is unable to do that. He's currently on the air right now, so he has signed a letter and submitted it instead.

I will cover the full remarks that we have from CivicAction. For the past 10 years, CivicAction has brought together senior leaders—actually, both rising leaders and established leaders—from all sectors to tackle our region's toughest challenges, and those are social, economic and environmental challenges of the greater Toronto and Hamilton area.

CivicAction sets a non-partisan agenda. We build strategic partnerships and we launch campaigns and programs, as well as organizations that transform our region. Accelerating the region's transportation is the number one priority for CivicAction at this time.

In 2011, we hosted our last regional summit, where we brought together 1,000 leaders for two days to talk about what are the top issues for the region. Whether we were talking about arts and culture or the environment or neighbourhoods or the economy, in all of those sessions transportation was the cross-cutting issue. Our board and our steering committee prioritized that as the issue to solve, and we have been working on that since the launch of our campaign.

Our transportation system is behind, and this primitive system is affecting all of us. It touches all of our lives. Whether it's a resident, an employer, an employee, a goods mover, a service provider or a consumer, we're all impacted by our limited transportation options each and every day. Congestion drains our economy by \$6 billion per year, and that number will increase to \$15 billion over the next 25 years as our region's population continues to grow by approximately 100,000 people each year.

Through CivicAction's Your 32 campaign at [your32.com](http://your32.com), CivicAction and its 45-member champions council of senior civic leaders from across all sectors have also uncovered that there is a human cost to congestion. The toll that congestion takes on our health, our well-being and our quality of life is significant. It's time that we get serious about funding the regional transportation system our region needs so urgently.

We have a plan in place. It's a \$50-billion plan proposed by the Big Move that has been approved by the provincial government as well as the heads of municipal councils, and it will create a seamless, multimodal, fully connected transportation system across the GTHA. We're glad that the province has already committed a significant amount to this plan, but we have so much more that we need to raise. So we are asking for all levels of government to commit to find the money to pay for a better system.

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Once Metrolinx submits its investment strategy to the province and the heads of our regions' towns and cities, we ask that you join CivicAction, civic leaders and

residents of the region in agreeing that we must solve the congestion problem. We must find ways to raise the money that is dedicated to building the system that we need and that there is no time to waste.

Based on what we've heard from our leaders and residents of the region, we are ready to see governments take action to raise the money, provided these new sources of revenue must meet certain principles. We will all benefit from the implementation of the Big Move and we must all be ready to contribute to making it happen. The funds need to be dedicated to transportation investments. They need to be efficient, transparent and accountable. They need to be regional, fair and sustainable.

Another key principle supported by CivicAction is ensuring that the implementation of new ways to collect revenue to fund transit does not adversely impact our most vulnerable citizens. Proper planning for rebates or some sort of accommodation for those least able to pay must be considered.

So in the weeks to come, CivicAction will be launching the next phase of its transportation campaign. We will be inviting civic leaders and elected representatives of the region to join together and show their support for greater investments and a commitment to take action to do so.

We hope we can count on you for your support then. The need to act has never been so clear and the cost of inaction has never been so high, so let's get moving.

**The Chair (Mr. Bas Balkissoon):** Thank you. We'll go to questions; the opposition.

**Mr. Jack MacLaren:** I don't have any questions.

**The Chair (Mr. Bas Balkissoon):** No questions?

**Mr. Jack MacLaren:** Do you, Rob?

**Mr. Rob E. Milligan:** Thanks for coming here this afternoon; it's greatly appreciated. A lot of what you've presented to committee today, we've heard: the \$6 billion it costs annually, and also the potential of that increasing to about \$15 billion. Of course, population is a huge factor as well.

Something that my esteemed colleague from Durham alluded to—and the last speaker—I think is also going to be a huge issue moving forward, and obviously transit is paramount: As technology improves, the types of transit that we bring on board, as well as the ability to work at home, will have a huge impact on transportation and how that's looked at as well.

Have you, from that aspect, looked at any statistics or trends—movements—that would indicate how that will also be affected?

**Ms. Mitzie Hunter:** Definitely. In fact, CivicAction—our emerging leaders network conducted their own studio. They convened 200 rising leaders, and that was a topic that came up. In fact, IBM was one of the key sponsors of that initiative that looked at some of those enhancements that could be made using technology, also advocating for more flexible work hours—basically addressing the load that's on peak hours and giving individuals choices in terms of when to travel.

The issue that we face in this region is that we have one of the worst commute times of any North American city, at 82 minutes. If we do nothing and our population continues to grow from six million to nine million people—we don't have the capacity today to move people efficiently, let alone for the future. So we do need to build out this additional capacity, and that's what our campaign is targeting. That being said, certainly, let's adopt some of the new technology and be as efficient as possible, as well as we'll welcome the flexibility of flex hours.

**Mr. Rob E. Milligan:** The other issue I'd like to address—and maybe you've also done some studies as well, talking to the business communities etc.—is the capital monies that have been raised and that will be used to implement the new transit systems that need to come on board. It's just that capital isn't always necessarily the major hurdle or barrier that we face; it's the operational side of transit that becomes sometimes quite burdensome to taxpayers. How are we going to address that per se?

**Ms. Mitzie Hunter:** Certainly the \$50 billion that needs to be raised through the Big Move is addressing the capital needs. It's a \$2-billion cash flow requirement over 25 years. That does not take into consideration all of the operating needs, although some of it is taken into account in terms of end-of-life as well as replacement costs, but certainly on the operating side that needs to be addressed as well. My understanding is that 25% of the monies raised will go to local priorities, which could also be utilized for some of those operating needs.

**Mr. Rob E. Milligan:** Do we have any sort of numbers or figures that attach to the operational side of things?

**Ms. Mitzie Hunter:** I haven't seen those and I'm not sure if Metrolinx has those.

**Mr. Rob E. Milligan:** Thank you.

**The Chair (Mr. Bas Balkissoon):** Thank you. The third party.

**Mr. Rosario Marchese:** Thank you, Mitzie. I wanted to ask Metrolinx this question but I just didn't have enough time to get into it. I know that they're saying the cost will be \$50 billion for capital and \$20 billion for operating. That's a huge amount of money that we all have to start thinking about. I suspect, and we really haven't had this discussion with other people, this is a projection of what we think the costs will be. My suspicion is that they will be much higher as they unfold over a much longer period of time than people imagine, and as things progress, the costs will probably increase. And who knows by how much? We really don't yet have a sense of what this will cost down the line, but it's going to be incredibly expensive.

What I wanted to do is to thank you—as I did the board of trade—CivicAction, for your engagement with the public. It will be a challenge for us all, and soon all three parties will have to reveal what they're going to do and which sources of funding they will opt for that are reasonable and fair to everyone. But it will happen soon. Thank you for doing the work.

**The Chair (Mr. Bas Balkissoon):** To the government side. Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Hi, Mitzie. How are you?

**Ms. Mitzie Hunter:** Hello.

**Mrs. Donna H. Cansfield:** So \$6 billion: I always wonder who came up with that, and I think it's the board of trade that really did. I always wonder how they came up with that, so I guess I'd better ask the board of trade next time I see them, because it's the one that everybody keeps using.

The interesting part in the whole issue around congestion is that the assumption continues to be that everybody is going to travel from outside Toronto to inside Toronto for the rest of their lives, and that's not quite the case. Building infrastructure means you have to look at it from a really fairly large perspective. It's not just a downtown Toronto challenge, because it's no question it's a challenge.

I guess my question through to you is that, as you look at that and that broader—the idea, if you want to create, as we have—I think Seaton is a good example, employment lands and residential lands and then you've got to move potentially 40,000 or 50,000 people, so transportation infrastructure becomes critical. There are lots of Seatons, Shelburnes and other areas; you get into Milton, Vaughan. They all can be industrial, commercial and residential, just the same as downtown Toronto. So it's really the connection of all of those.

I guess I'm just trying to say that it's not a downtown Toronto problem, and sometimes we tend to focus on just the whole world is downtown Toronto and it's really not. It's the movement of goods and services and people, back and forth, and people can live in downtown Toronto and work in Vaughan, for example.

In your discussions that you have with the civic leaders that talk about this, do they look at multimodal transportation? Or is it just strictly transit?

**Ms. Mitzie Hunter:** It's definitely multimodal. You're absolutely right that people are choosing to live and work and have reasons to get around right across the region. There's a lot of traffic happening north and south as people get to employment areas, as well as east and west, or really, perhaps living in one area and studying in another. There are over two and a half million trips that cross municipal boundaries on a day-to-day basis, and really, congestion is a problem in our region, whether you're in the outer rings or you're in the core. These investments are meant to address that.

Over 1,200 kilometres of new rapid transit will be built based on the Metrolinx Big Move plan. That plan was put together with consideration for the provincial government's growth plan and the Places to Grow strategy that's in place right now. So it is taking into consideration the intensification and the density that we need along transit corridors, but certainly it's not just all about the core, although the core itself is already at capacity.

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I recently had an opportunity with students from Centennial College to participate in the Big Race. They

basically dropped me in an area and gave me instructions on how to get downtown. It was an incredible experience. I talked to people from all across this region, people who lived in Brampton and were working downtown every day, riding our transit system. Really, and I think it speaks to the other member's comments, the burden is not just an economic burden, but it's a human cost as well, with people not having time for family and for things that really improve our quality of life because they're stuck commuting. There was one woman I spoke to; she commuted two and a half hours each day to get to and from work. That's really the equivalent of a part-time job just trying to get around to get to work.

It's really an issue that needs to be solved. It's simply unproductive. That \$6 billion was put together by the board of trade, and it's probably a conservative estimate. The cost is really probably far greater. It's one that we know is growing each and every year.

**Mrs. Donna H. Cansfield:** Kevin wants to ask a question, but just on that, if you live in Brampton and you work downtown, it's going to take you, even with no traffic, an hour and a half to commute to downtown Toronto, even if there's nothing. It raises a whole other issue around affordability and having jobs or industry or whatever in another part—the satellites, whatever. That should be also part of a broader discussion that's taking place.

You don't have to answer, because Kevin wants to ask you a question.

**Mr. Kevin Daniel Flynn:** Thank you for the presentation.

**The Chair (Mr. Bas Balkissoon):** You have 10 seconds.

**Mr. Kevin Daniel Flynn:** Ten seconds?

**The Chair (Mr. Bas Balkissoon):** Ten seconds. I told you you only had a minute.

**Mr. Kevin Daniel Flynn:** It was really nice to meet you. Say hi to John for us.

**Mrs. Donna H. Cansfield:** I apologize.

**The Chair (Mr. Bas Balkissoon):** Thank you for being here.

## COMMITTEE BUSINESS

**The Chair (Mr. Bas Balkissoon):** Now the committee will move to the next two items, which are the motions that were moved earlier today. Is somebody going to take carriage of Mr. Colle's?

**Mrs. Donna H. Cansfield:** Yes, I can.

**The Chair (Mr. Bas Balkissoon):** Mrs. Cansfield, I require you to read the motion.

**Mrs. Donna H. Cansfield:** Certainly. I move that the subcommittee meet at the call of the Chair to have further discussions on how to proceed with a review of the Aggregate Resources Act.

**The Chair (Mr. Bas Balkissoon):** Any discussion? Mr. Marchese?

**Mr. Rosario Marchese:** No, but I'm very, very supportive of the motion because it completes the work that we had started last year, and we need to finish it off.

Having the subcommittee talk about the work that should follow is important.

**The Chair (Mr. Bas Balkissoon):** Further comments?

**Mr. John O'Toole:** As a standing person on this committee, I agree and had some participation in that as well. It's good to have Donna Cansfield here, who was the minister, very much engaged in that process. It's a lot of work, and it's an important subject.

**The Chair (Mr. Bas Balkissoon):** Okay, shall I take the vote? All in favour? Carried.

Now the motion by Ms. Campbell, if I could get you to read it into the record.

**Ms. Sarah Campbell:** I move:

(1) That the Standing Committee on General Government meet during normal meeting hours for the purpose of holding public hearings pursuant to standing order 111(a) to initiate a fair and balanced study into a range of auto insurance industry practices and trends on Monday, April 15, 2013, and Wednesday, April 17, 2013, in Toronto.

(2) That each organization be allowed 10 minutes for their presentation followed by 10 minutes for questions by each party for a total of 40 minutes per witness.

(3) That witnesses appear on a first-come, first-served basis.

(4) That the Clerk of the Committee invite Financial Services Commission of Ontario (FSCO) to present for 10 minutes followed by up to 30 minutes of questioning by each party.

(5) That the committee Clerk post information regarding public hearings on the Ontario parliamentary channel, the Legislative Assembly website and CNW newswire service by noon, Thursday, April 11, 2013.

(6) That interested parties who wish to be considered to make an oral presentation contact the committee Clerk by 12 o'clock noon on Friday, April 12, 2013.

**The Chair (Mr. Bas Balkissoon):** Everybody understands the motion? Any comments?

**Mr. John O'Toole:** Yes. The mover of the motion may want to make it, but I was just suggesting a friendly amendment. I know that FSCO is the regulator, but I think there needs to be a bit more discussion, broader, on your behalf really, with the IBC and the insurance brokers themselves. FSCO has the position of rates, and one of the recommendations is to file and use rates. When I was in FSCO, that's one of the things they talked about: file and use rates. There are other suggestions on the auto insurance file; I think it's an important file.

I'll leave it at that. It's a friendly amendment; if you don't, then you can do what you wish.

**Mr. Rosario Marchese:** I think I would like to leave it like this, John; obviously, all the other people will be coming, I'm sure.

**Mr. John O'Toole:** Okay.

**The Chair (Mr. Bas Balkissoon):** Did you move an amendment?

**Mr. John O'Toole:** No, it was just a friendly discussion.

**The Chair (Mr. Bas Balkissoon):** Okay.

Further discussion, Ms. Cansfield.

**Mrs. Donna H. Cansfield:** Thank you. I just wanted to, on number 3: The witnesses appear on a first-come, first-served basis. I would like to think that there's fair representation in terms of the witnesses that come forward. I don't know how we've done this in the past, but I would like to think that we might submit names as well, as you might choose to submit names and you might choose to submit names. If it's just a list of people who come in automatically, we may not have a balanced approach. I'd take some conversation from this.

**The Clerk Pro Tem (Mr. Trevor Day):** With this particular type of turnaround, any time we have a name or a list set up, we would need a deadline and time to get the list to you as to who requested to appear, you'd have to get them back to us, we'd have to schedule these people—with it being starting actual hearings a week from today, the first-come, first-served is one of the quickest ways to turn around. Other than that, we'd have to post the information, I'd say, by tomorrow morning. A deadline would have to be set somewhere in the neighbourhood of, perhaps, Thursday afternoon to hear back—later Thursday—and then try to schedule everybody for the Monday.

**Mr. Rosario Marchese:** Can I just recommend to her that if you know people that you want to come, then let them know that this motion has been moved and ask them to call early.

**Mrs. Donna H. Cansfield:** Certainly, that's what I will do. I would think everyone would like to have the opportunity to have reasonable representation in terms of their perspective on this.

**Mr. Rosario Marchese:** Yes, so I urge you to do that.

**Mrs. Donna H. Cansfield:** I was just more concerned, because I just got this, that there's a timing issue.

**The Clerk Pro Tem (Mr. Trevor Day):** For the committee's information, at the start of this meeting there were currently two requests to appear. I don't know who they are, but that's who we had.

**Mrs. Donna H. Cansfield:** So they knew it before we had an opportunity?

**The Clerk Pro Tem (Mr. Trevor Day):** We take requests to appear before—

**Mrs. Donna H. Cansfield:** That was my point, gentlemen.

**The Clerk Pro Tem (Mr. Trevor Day):** We take requests to appear as soon as the issue is raised.

**Mr. Rosario Marchese:** Which insurance company is it?

**The Clerk Pro Tem (Mr. Trevor Day):** I don't know who they are. I'm just saying.

*Interjections.*

**The Chair (Mr. Bas Balkissoon):** Further discussion? Anybody else? No?

Shall I take the vote? All in favour? Carried.

That's all the business. The committee is adjourned.

*The committee adjourned at 1738.*

## STANDING COMMITTEE ON GENERAL GOVERNMENT

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### **Vice-Chair / Vice-Présidente**

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Mr. Rick Bartolucci (Sudbury L)

Ms. Sarah Campbell (Kenora–Rainy River ND)

Mrs. Donna H. Cansfield (Etobicoke Centre / Etobicoke-Centre L)

Mr. Mike Colle (Eglinton–Lawrence L)

Mr. Rosario Marchese (Trinity–Spadina ND)

Ms. Laurie Scott (Haliburton–Kawartha Lakes–Brock PC)

Mr. Todd Smith (Prince Edward–Hastings PC)

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Mr. Jack MacLaren (Carleton–Mississippi Mills PC)

Mr. Rob E. Milligan (Northumberland–Quinte West PC)

Mr. John O'Toole (Durham PC)

### **Clerk pro tem / Greffier par intérim**

Mr. Trevor Day

### **Staff / Personnel**

Mr. Jerry Richmond, research officer,

Legislative Research Service

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**Legislative Assembly  
of Ontario**

Second Session, 40<sup>th</sup> Parliament



**Official Report  
of Debates  
(Hansard)**

Wednesday 10 April 2013

**Assemblée législative  
de l'Ontario**

Deuxième session, 40<sup>e</sup> législature

**Journal  
des débats  
(Hansard)**

Mercredi 10 avril 2013

**Standing Committee on  
General Government**

Traffic Congestion

**Comité permanent des  
affaires gouvernementales**

Congestion routière

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Wednesday 10 April 2013

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Mercredi 10 avril 2013

*The committee met at 1605 in room 228.*

## TRAFFIC CONGESTION

**The Chair (Mr. Bas Balkissoon):** We'll call the meeting to order of the Standing Committee on General Government. We will continue deputations on the study relating to traffic congestion in the GTHA.

TORONTO CENTRE FOR ACTIVE  
TRANSPORTATION

**The Chair (Mr. Bas Balkissoon):** The first presenter is the Toronto Centre for Active Transportation: Nancy Smith Lea. Please come forward. You've got five minutes to present, and then we'll switch to questions. Each party is allowed five minutes of questioning. You can start.

**Ms. Nancy Smith Lea:** Thank you, Mr. Chair, and thank you to Mike Colle for the motion to consider cycling as a means of relieving traffic congestion.

*Interjections.*

**Ms. Nancy Smith Lea:** No problem.

I'm speaking to you today on behalf of the Toronto Centre for Active Transportation. We are a project of the registered charity the Clean Air Partnership. TCAT's mission is to advance knowledge and evidence to build support for safe and inclusive streets for walking and cycling. We believe that active transportation plays a critical role in creating environmentally and economically sustainable cities.

I have three main points that I wanted to make to you today.

The first one is about the primary cause of congestion and the need for a new way of doing things. I'd first like to acknowledge that of course traffic congestion is clearly a pernicious problem that needs to be addressed, but the elephant in the room that doesn't get the attention it deserves is that the key ingredient in pretty much each and every traffic jam is the fact that there are too many single-occupancy vehicles. As Canadians, we're pretty polite, and it's kind of considered rude to point out that pretty obvious fact.

In the solutions that so many of us propose, we talk about the need for balance, accommodating all road users and providing options, and that's all good. But I think that we just need to be clear and keep our eye on the ball

that we need to shift a significant number of trips that are currently being made in single-occupancy vehicles to other modes. It's not just about balance; it's about prioritization.

We have a fantastic policy base that has been developed here in the city and also in the province. We have the city of Toronto's official plan, we have the Places to Grow Act, transit supportive guidelines and the Metrolinx Big Move regional transportation plan to name just a few, all of which recognize the importance of getting people out of their cars.

Yet on-the-ground change has really been happening much too slowly as we continue our long legacy as a province that builds highways and expands roads and only accommodates public and active transportation where it fits in around the edges. How can we realistically expect people to get out of their cars when we continue to invest billions of dollars each year to expand our highway network?

What's so striking to me is how we generally ignore the mounting evidence dating back to at least the 1940s that new roads fill up not with diverted traffic from congested nearby roads, but with all sorts of new trips that weren't there before. Expanding our highway network each year most certainly creates more congestion in the long run than is alleviated.

Last year, two University of Toronto economists released a comprehensive study that told us what we know already: that building more roads does not ease traffic congestion. A 2012 research paper by the Victoria Transport Policy Institute showed that roadway expansion impacts negatively on other modes.

What we clearly need to do is approach this problem in a different way than how we've done things in the past. As the old saying goes, insanity is doing the same thing over and over again and expecting different results. We need to build a transportation system that goes beyond accommodation and balance towards one that prioritizes walking and cycling and other healthy, low-polluting and cost-effective modes of transportation that do not contribute to traffic congestion, environmental damage, health care costs and social isolation created by single-occupancy motor vehicles.

Right now, the primary criteria that we use to make transportation decisions is whether or not it speeds up the flow of motor vehicle traffic. We need to expand the parameters of our decision-making process to include

equity, health, the environment and fiscal responsibility. There are frameworks currently being developed to accomplish this. For example, last week, Toronto Public Health adopted an evaluation framework for transportation infrastructure priorities that recognizes the importance of improving the convenience and safety of walking and cycling and supports the implementation of complete streets which provide safe, equal access to all modes of transportation—sorry?

**The Chair (Mr. Bas Balkissoon):** You have one minute left.

1610

**Ms. Nancy Smith Lea:** One minute? Okay, I have two other points. My second point is about the fantastic opportunity that we have here in front of us to make big improvements. Canadians make an average of 2,000 car trips of less than three kilometres each year, and the Big Move identified that 17% of the trips in the GTHA are walkable, so under two kilometres, and 40% are bikeable, under five kilometres. Yet currently walking and cycling account for less than 5% of work trips in the GTHA.

It's a very significant but very solvable problem. Active transportation isn't just a nice-to-have add-on; walking and cycling are important transportation options in their own right but also serve an extremely important function in trip chaining. When planned for well, they're critical components of a public transportation system for that first and last mile.

My third point is about the need to invest in the solutions in the big—

**The Chair (Mr. Bas Balkissoon):** I have to cut you off because we've got to get the question in. I'm sorry.

Mr. O'Toole?

**Mr. John O'Toole:** Yes, thank you very much for your presentation, Ms. Lea, as well as bringing your voice to the practical solutions like walking and cycling. I'm sort of a supporter of that. I take the GO train and I walk up from Union Station every morning and I think it's tied to better healthy outcomes as well.

I'm going to ask you an unusual question. Your presentation here is—here's what I'm kind of listening to, as they say: All roads lead to Rome. If you keep building the infrastructure to accommodate getting more people here, you're never going to solve the problem. It's kind of a riddle. It will always be after the need arrives you'll address the need, which then becomes aggravated by increasing the number of trains to Toronto.

Do you have any idea of maybe making other nodes, more preferential destinations like Mississauga or York or—break it down a bit? Maybe even take the ministries out of Toronto. I would wonder, why are people going to law firms? Why don't they log on at some node? That's what I would sort of advocate, change “this has to be bigger is better.” I think it ruins the quality of life for the people who currently reside here, by all these people coming in and using the restaurants—no, that's the economy. I'm sorry about that.

Maybe you could just respond. I'm not trying to be casual here. I have three children who all work in differ-

ent countries and none of them go to work every day—none of them. They're in marketing, law and another is a sort of test pilot kind of guy.

My point is, the idea that people have to, for 40 hours, go somewhere else to do something is prehistoric. When I worked at General Motors, the 5,000 employees had to go there at 7 and leave at 4. That's history as far as I'm concerned. And if you're looking for solutions for the future—live, work, part of intensification—let's have some really novel new ideas of development and growth.

**Ms. Nancy Smith Lea:** I agree that there could definitely be more with telecommuting and I agree that there's a lot of trips right now that don't need to be made. I think that there could be—

**Mr. John O'Toole:** Seventeen per cent.

**Ms. Nancy Smith Lea:** Yes. But I think that it's really not beyond us to plan a better transportation system. There are centres all over the world that are planned better than we're planning our centre.

An urban core is really essential for lots of reasons and so I don't think we should just give up on it. That was really—

**Mr. John O'Toole:** It has to be integrated and I'll tell you why. I just got back from Hong Kong. My daughter lives there. They have one card and with that card you can pay for parking, a sandwich, a taxi, transit, everything, and it's totally integrated.

This is where we have Hazel saying something and Mayor Ford saying something and Bill Fisch saying something. It needs to be totally integrated and that starts with the governance model itself. I think I appreciate what you're saying, but I'm looking at the governance model, which creates redundancies, where, “No, we can't pick up on your side of the street.” Those kinds of problems are politically made and they create the problem by the governance model we've set up.

I appreciate your innovative approach to this. I think saying something new would really be helpful at this time, because gridlock—if we keep doing what we're doing, we're going to have the same problem. It will just be more money.

**The Chair (Mr. Bas Balkissoon):** We'll move to the third party. Mr. Marchese?

**Mr. Rosario Marchese:** I just want to congratulate you on the work that you and a lot of people who work with you do.

**Ms. Nancy Smith Lea:** Thank you.

**Mr. Rosario Marchese:** I think more and more people are beginning to think in those ways for a variety of different reasons. It's about lifestyles, health and the environment. So, I think the focus is important. It has taken a long time to change that culture shift, and that includes politicians, ministers and governments. I think we're getting there. You've done a lot of work and held a lot of conferences on complete streets, which is good. I'm assuming the participation is always big?

**Ms. Nancy Smith Lea:** Yes.

**Mr. Rosario Marchese:** It's probably getting bigger.

**Ms. Nancy Smith Lea:** Yes.

**Mr. Rosario Marchese:** These changes, I think, involve having to review the Highway Traffic Act; you probably agree with that.

**Ms. Nancy Smith Lea:** Yes.

**Mr. Rosario Marchese:** If we were to do the review of the Highway Traffic Act, what do you think should change?

**Ms. Nancy Smith Lea:** Well, we've actually made some comments about that. There are a lot of things that could be changed with the HTA. For example, there's the three-foot passing law that has been put forward as a recommendation. There are a lot of issues around clarification about the right to take the lane, if cyclists need to take over the lane for their own safety—whether or not that's actually permitted in the HTA—there's some confusion around that. I think that needs to be clarified. We've made a lot of detailed recommendations about that I'd be happy to share with you.

**Mr. Rosario Marchese:** A lot of people are saying that it seems like there's almost a voluntary approach right now to complete streets, and that's not enough. That kind of volunteer approach is not going to take us too far. Do you think whatever the government is about to propose—and hopefully it'll come soon—needs more teeth?

**Ms. Nancy Smith Lea:** Are you talking about Toronto?

**Mr. Rosario Marchese:** In general, the province.

**Ms. Nancy Smith Lea:** Right. Well, that's why my third point—I think it's so critical that we do fund the Big Move and that we get some new revenue tools in. In the Big Move there is \$60 million set aside for cycling and walking and some other initiatives. So I think that political will is an issue for sure, but we also just don't have enough funding for the things that we need to do. You know, the walking and cycling projects are much lower-ticket items. It could be done much more quickly than the big-ticket items, which we also need to fund, but I think that we need to make sure that we get that funding in place and then that those active transportation projects get funded.

**Mr. Rosario Marchese:** Thanks, Nancy.

**The Chair (Mr. Bas Balkissoon):** The government side?

**Mr. Mike Colle:** Yes, a lot of thought-provoking comments by my colleague from Durham there and your response, because I think he made a lot of very interesting points that we've got to sort of try to grapple with, and I'm sure you've been grappling with.

I mean, the thing about single-occupancy vehicles, first of all, that is a real almost habit. I know if you stand on any corner—I sometimes have to cross the street at Allen Road and Eglinton. As I'm waiting at the light, 90% of the cars have one person in them. How do you get those people coming down from York region, coming into the centre of the city? I know they used to talk about carpooling. That was going to be the big saviour, carpooling and all this stuff. Well, basically it has been a total flop. So, how do we get people that come down two or three in a vehicle, God forbid, how can we do that?

**Ms. Nancy Smith Lea:** Yes, I mean, I'm surprised to hear you say it's a flop. My understanding was that that's been going well with the Smart Commute programs. Again, I don't think they're getting a lot of funding; they're a pretty small initiative still. But, yes, it's a very difficult problem. You know, the municipalities around the GTHA have the worst active transportation rates in the country. Nine of the 10 cities that have the worst active transportation rates are in the GTA. So I think that there are just so many things that we need to do, it's hard to know what to do first. I think that each of the municipalities need to really make sure that getting to and from the GO stations—that the public transit is really easily accessible by walking and cycling. I think that once people get in their cars it's just habits. We're all—you know, by habit we're going to just keep driving. If that's what we're doing, we're going to—

1620

**Mr. Mike Colle:** Hard habits to break.

**Ms. Nancy Smith Lea:** There's a lot that needs to be done, but—

**Mr. Mike Colle:** Sorry to interrupt, but the other thing is about the telecommuting and people who work at home.

**Ms. Nancy Smith Lea:** Yes.

**Mr. Mike Colle:** I know when we used to debate building subways back in the 1980s at Metro Toronto council—I think Greg Gormick, who is here, remembers—there used to be some opponents of building transit infrastructure. They used to say, "Well, in the year 2000, everybody will be working at home on their computers. They will not leave their house. They can work from home." God, look at what has happened as computers, the Internet etc.—there are more people on our roads. In fact, Google now is telling people, "Get out of your house and get to work," because this telecommuting stuff isn't working. It doesn't seem to be the answer, this telecommuting fairy tale.

The other thing is hours of work. That was another good point my colleague from Durham made: Why are we still stuck—you know, he comes every day at the same hours. He goes home at the same time. Why can't we have companies and governments get beyond that 9-to-5 clock?

**The Chair (Mr. Bas Balkissoon):** You have 30 seconds.

**Mr. Mike Colle:** Are you going to answer that? How can we get away from the 9-to-5 rush hour? If we were able to shift people to different hours—it's supply and demand. They're all using the same roads at the same time. God forbid we come in to work at 11 o'clock.

**Mrs. Donna H. Cansfield:** I like that.

**Mr. Mike Colle:** Oh, God forbid, and we go home at 7. Imagine: There would be riots in the streets.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. I'll have to move on to the next deputant. Thanks very much for being here with us, and thanks for your input.

TRILLIUM AUTOMOBILE DEALERS  
ASSOCIATION

**The Chair (Mr. Bas Balkissoon):** The next one is the Trillium Automobile Dealers Association, Frank Notte. You have five minutes to present, and then we'll turn to questions: five minutes from each party.

**Mr. Frank Notte:** That's great. Thank you. Thanks for the opportunity.

My name is Frank Notte, and I'm the director of government relations for the Trillium Automobile Dealers Association. Trillium represents over 1,000 new car dealers in Ontario, with every manufacturer's brand and franchise. That's roughly one third of all new car dealers in Canada. Our member dealers don't just sell cars; they provide well-paying jobs to over 47,000 women and men.

I had the pleasure of presenting to this committee last year and welcome the opportunity to do it again right now.

I'm just going to go into the five recommendations. You'll see them in the handout, so I'll just quickly touch on those and then talk a little bit about the Big Move. Essentially, we have five recommendations that we think the government should consider to break traffic congestion in the GTA. One is to reverse the 2012 Ontario budget cuts of \$229 million over the next six years to previously approved highway expansion and high-occupancy-vehicle lane projects. On March 13, 2012, the Minister of Transportation at the time announced higher vehicle and driver fees that will generate an extra \$340 million annually for the province. Clearly, we feel the added revenue covers that budget cut.

Number 2 would be to move forward on the GTA west corridor study. The Brampton Board of Trade is concerned that a 15- to 20-year timeline to initiate the project is too long for businesses and municipalities to plan accordingly.

Number 3 would be to build the Niagara-to-GTA highway to properly accommodate future population growth, help foster economic growth and prevent traffic congestion in the region. A report done said, "By 2031 ... the existing transportation network within the Niagara-to-GTA study area will not be able to support the additional transportation demands that correspond with the projected growth."

Number 4 would be to examine how existing infrastructure, mainly in the downtown cores, can be better utilized to increase traffic flow and allow vehicles, cyclists and pedestrians to move more efficiently.

Number 5 would be to review the city of Toronto's downtown transportation operations study, upon completion. The province should consider what best practices or ideas the study contains.

For some, the silver bullet to alleviating the GTA's specific traffic congestion is investing only in public transit at the expense of roadways and drivers. We feel this is an irresponsible policy and fails to recognize that the vast majority of people need and want to drive auto-

mobiles. Trillium estimates that 90% of Ontario residents 18 years of age or over are licensed drivers. Trillium is not surprised that almost every adult in Ontario feels they need to have a driver's licence.

I do want to put on the record that Metrolinx's Big Move will help to alleviate traffic congestion. However, Trillium challenges the notion that massive tax increases are needed to fund its \$50-billion plan. Appendix A in the submission shows that drivers pay \$15 billion per year in taxes and fees related to owning and operating a vehicle. Those funds are collected through an astonishing 16 different taxes and fees. It's hard to think of another item that is so thoroughly taxed.

To simply conclude that higher taxes are needed to fund the Big Move assumes every dollar of the \$126-billion provincial budget is spent wisely or properly allocated. Some ideas to fund the Big Move could include better allocating the \$10 billion in provincial government revenue from drivers; using the \$1 billion per year Ontario could collect, as identified on pages 412 to 417 of the Drummond report; and possibly using some of the approximately \$1.5 billion generated per year, thanks to the HST being applied to gasoline.

We challenge the Ontario government to continue to find ways to fund the Big Move without tax increases.

If there are any other questions, I'd be happy to take them. I didn't want to take up too much of the time.

**Mr. John O'Toole:** Chair?

**Interjection:** Chair?

**The Chair (Mr. Bas Balkissoon):** Just one second. Okay, the third party.

**Mr. Rosario Marchese:** Thank you, Frank. It's good to see you again. We like to have meetings on a regular basis. When people repeat things twice, we hear them a little better, I think.

I understand some of the points you make, and to some extent, it makes sense. On the other hand, the needs of the province get bigger and bigger, and a whole lot of people are saying, "We need to be able to cut to be able to bring in other priorities," and I'm not sure how we're going to do that. We're going to have to have a discussion of what's fair and what's affordable, and how does a province raise money in a fair way so that we can do the things that we need to do as a community? Because while some people like the whole idea of individualism, many of us think of our community and how we protect ourselves and how we help ourselves.

But can I ask you a question about how we make better use of our existing highway structure? There are a whole lot of people saying, "We can't continue to build more and more highways." While there might be a need for us to do that in some areas, there's a growing resistance to creating more and more highways in our system. I don't know whether you take that into account as you present these arguments, but I think your organization has to balance these things out. Can we use the existing highway infrastructure better? One question is—speeding up the implementation of the HOV lanes is something that some people are recommending. Some people are

saying it works, and shouldn't we be speeding that up as a way of giving people better options and better opportunities to move along? Is that something that you've been thinking about?

**Mr. Frank Notte:** HOV lanes?

**Mr. Rosario Marchese:** Yes.

**Mr. Frank Notte:** Yes, absolutely.

**Mr. Rosario Marchese:** Could we be speeding that up?

**Mr. Frank Notte:** Yes.

**Mr. Rosario Marchese:** Should we be speeding that up?

**Mr. Frank Notte:** Absolutely. I know the presenter before me said she believes that the problem is too many single-occupancy vehicles. If people can commute with other people and carpool, that's a great thing. But I think the reality is the other options aren't that attainable or easy to do in everyday life. I think the alternative to that is not favourable for most people.

**Mr. Rosario Marchese:** But how do you respond, Frank, to some of the concerns that others are saying: "We should be building a better railway system across the province and the country;" "We shouldn't be building more highways, necessarily, because that's not the way we should be doing it in a modern society, especially where there are environmental concerns." Does the organization think about those questions?

**Mr. Frank Notte:** We do think about those questions.

**Mr. Rosario Marchese:** And what is your response to what people say about that?

**Mr. Frank Notte:** Our response is, we want the debate to move past the public-transit-versus-driver argument. When I drive by the GO stations, there's a lot of people who actually drive there and then take the GO train to downtown. I think both have to be supported.

I'm not here to bash public transit; I know there's a vast majority of people who use both modes to get to work or get into the city on the weekend. Do I think both have to be supported? I don't think you can choose one at the expense of the other.

**Mr. Rosario Marchese:** No, I don't think you can either. I think there's a need for us to create a better transit and transportation system in the whole province. The question will be, shortly, how we're all going to pronounce ourselves as political parties and how we're going to do that. But there is no question in many people's minds that we've got to create a better system and wait and see what we all have to say about that in a short while.

1630

**The Chair (Mr. Bas Balkissoon):** You've got a minute left.

**Mr. Rosario Marchese:** Thanks, Frank.

**The Chair (Mr. Bas Balkissoon):** The government side.

**Mr. Kevin Daniel Flynn:** Thank you for your presentation. I think we have a few things in common. I come from a riding that's got an automobile assembly

plant in it, Ford. So I want Ford to make as many cars as they possibly can.

**Mr. Frank Notte:** Absolutely.

**Mr. Kevin Daniel Flynn:** I want Ford to employ as many people as they can.

Yet I agree with Nancy, who spoke before us, that when I drive in the HOV lane in the morning if I've got somebody in my car, I fly past hundreds of thousands of cars that have a single occupant.

So how do you justify or how do you balance the interests of Ontario being the largest auto-producing jurisdiction in all of North America with the fact that people, I think, are making a very valid point that we have too many cars on the road? You sell those cars. You have people who are employed in selling those cars. That's how they put food on the table. The workers at the Ford plant are the people who assemble those cars. They export two out of three cars, and we import a number of cars. So how do you balance the interests of an industry that's under some criticism—or not criticism; the use of its products is under some criticism, as we could utilize those products better. How do you balance that against the obvious economic advantages of having a strong auto assembly industry and auto sales?

**Mr. Frank Notte:** I think the balance would be for Ontario to continue being the number one jurisdiction to build cars. The government's support of that is well noted and should be continued because I think people in Oakville and the surrounding areas will benefit from that.

But I do think, at the same time, if people have a choice of driving into downtown from Oakville or want to get on at the Bronte station, both of those should be supported. So if you've got a hockey tournament downtown, chances are you're going to probably drive and not take the GO train. Or if you were heading to a game at BMO Field, it's pretty easy to take the GO train, and there's the Exhibition stop right there.

That's why I'm trying to change the debate. I know it's in vogue to talk about cars and cars against public transit. But I think if you make investments in both, people will ultimately choose what's best.

**Mr. Kevin Daniel Flynn:** One final question, and that is, I know that Ford in Oakville makes great use of rail. It ships an awful lot of—in fact, I think almost all of its products get shipped out by rail, or I think a very high percentage of them do, anyway. But they always end up at a station somewhere, and they've got to be trucked to the dealership. I often see their trucks on the QEW at rush hour.

Is your organization doing anything to foster late-night delivery or 3 in the morning delivery to its member lots? Anything along those lines?

**Mr. Frank Notte:** Our association, no, and the reason for that is many of those decisions are made by the manufacturer themselves so often. The dealerships will make a request for a certain vehicle that might not be on the lot, and then it's really out of their hands as to when the manufacturer is able to deliver them. But I think one thing that dealers have done on a grassroots level, like

Budds' in Oakville, is to try to be in a common space so that the trucks aren't going all around Oakville; they're just going to pretty much one area to try to relieve that.

**Mr. Kevin Daniel Flynn:** I think Donna had a question.

**Mrs. Donna H. Cansfield:** I just had a very quick question, and it really picks up on what Mr. O'Toole has indicated. When you read your brief—and I appreciate that you're a dealership, so your heart is towards your dealers and the manufacturing of cars. I also appreciate that it's the world we live in. I mean, 94% of the people in this province live on 6% of the land mass.

That goes to Mr. O'Toole's question around the issue of employment lands and residential lands outside of a core, so that you actually start to distribute that population. Yet I don't see that as a part of the thinking, because you can sell a car anywhere.

**The Chair (Mr. Bas Balkissoon):** One minute left.

**Mrs. Donna H. Cansfield:** So part of your thinking is sort of thinking outside the box for your dealers in terms of those employment and residential lands outside of a core like downtown Toronto, because there are many ways to relieve congestion. Any thoughts?

**Mr. Frank Notte:** On how to move that out of—

**Mrs. Donna H. Cansfield:** Or just to get that discussion going more amongst your dealerships.

**Mr. Frank Notte:** I don't understand the question, though. I'm sorry.

**Mrs. Donna H. Cansfield:** Okay. You have dealerships all over the province.

**Mr. Frank Notte:** Yes.

**Mrs. Donna H. Cansfield:** So why could you not have a discussion on not just more roads, whatever, but moving the demographic out into a broader GTAA or GTHA, whatever it's called, so that you move that population, so you're not just looking at trying to relieve the congestion by building more roads or more whatever, but actually moving the vehicles outside of—and providing more opportunities for alternatives. I don't see that as part of your discussion. I'm just curious as to why it wouldn't be there.

**The Chair (Mr. Bas Balkissoon):** Sorry, but we've run out of time. We'll have to switch to my good friend Mr. O'Toole.

**Mr. John O'Toole:** Thank you very much, Frank, for your presentation. You've really precipitated some interesting comments from my colleagues around the room. You represent the auto industry, and from where I come, Frank, there's no single solution, as you said in your presentation. There is a mix of choices, and the choices include road, rail, cars. I take the GO train, but I have to take the car to the GO train. The car sits there all day, kind of taking up space, which is not taxed properly. Do you understand what I mean? It isn't well integrated at all, even by the nodes themselves. Do you understand? There are different drop-offs. It doesn't encourage carpooling to the terminus for the transit system.

I sort of think of it this way: As different problems have different solutions, density—urban or rural—is very

important. In fairness to what Ms. Cansfield said, the government does have a plan; it's called Places to Grow. Places to Grow is really predicated on the suggestion that Ms. Cansfield is making, which is trying to drive growth—live-work organization. That's kind of what it's about. It's density. Transit only works with density. Transit does not work in linear urban form. It works in Europe. It's very important; in the study of transportation issues, it's called Christaller's central place theory, a very old theory. I took urban geography in university.

Europe was developed on concentric circles, and transit accommodates density specifically where you have nodes and nodal development and mixed uses. We're not developed like that, and we're trying to change it by some infusion of money, doing the same thing: building more of what we've done. We're all pretty well saying that.

We're looking for something quite new, and I would say that even the current policy on the distribution of gas tax provincially—it must go to transit, which is forcing Durham region, as an example, to have buses running all over the country, past sheep farms with nobody in the buses, to qualify for the gas tax money.

Federally, they give it to—because our transit system in rural Ontario is roads and bridges. We would probably like to have transit, but you can't send a bus down a rural road for five kilometres to maybe pick someone up. It doesn't work. The car is essential.

I will ask one question: On the record, your response to the importance of green vehicles—the combination of electric recharge stations and all that kind of stuff—and slow moving vehicles, SMVs. This is a very important policy decision. Ms. Cansfield is a former minister of this business, and we can't even prove cars that are made in Canada—they're called SMVs, slow-moving vehicles. That's the future. That is the future: an urban form, smaller footprints for vehicles; the Smart cars and those are examples from Europe that could be solutions, along with a bicycle. Not everyone can pedal a bicycle in the wintertime; I get it, but they could use that small avenue on the side of the road if they respected certain speed limits.

Do you have any comments, Frank, on that kind of thing?

**Mr. Frank Notte:** On green vehicles or slow-moving vehicles?

**Mr. John O'Toole:** On slow-moving vehicles and new forms of vehicles, which have been mentioned by a couple of people

**Mr. Frank Notte:** Yes, it's always better to be green if you can; right? I think, at the end of the day, if Ford can't make enough vehicles and sell them, then the consumers are telling them something. Yes, it should be supported, but at the end of the day, I don't know if there are going to be enough people buying those vehicles.

**Mr. John O'Toole:** Well, I think there are prohibitions right now on it, because the ZENN car, made in Quebec, is not able to be sold in Ontario, and it is a commuter-based car that does 60 to 100 kilometres. The

province, in fairness, did provide a tax credit for purchase of electric vehicles—i.e. the Volt.

**Mr. Frank Notte:** Yes.

**Mr. John O'Toole:** And that was \$10,000. Now they're going to have to build infrastructure for charging those vehicles. That's a good way of collecting tax, because those vehicles, when charged—we'll have to put a meter and pay the meter money, just like a parking meter, to give them electricity. It's not going to be free, and that tax could be turned into improving the infrastructure for SMVs, electric cars and all this kind of stuff. These are things that aren't on the presentations that I see, something envisioning a new approach to this.

1640

Now, in all fairness, this and all the advertising, starting from Metrolinx, is a push theory that's \$50 billion—

**The Chair (Mr. Bas Balkissoon):** Thank you very much. I have to move on to the next presenter. Thanks very much for being here, Frank.

### ECOLOGY OTTAWA

**The Chair (Mr. Bas Balkissoon):** Our next presenter is on the phone. It's Mr. Geoff Stiles. Can you hear us, Geoff? Hello?

**Mr. Geoff Stiles:** Yes. I can hear you fine, thank you.

**The Chair (Mr. Bas Balkissoon):** Okay. Geoff, it's the Chair of the committee, Bas Balkissoon, and we have all the members here. I understand you might have someone else with you, so what I would ask you to do is, when you speak, at the beginning identify yourself so the members know who is speaking to them.

We have five minutes for your presentation and then we will go in rotation by the various parties, five minutes for questioning by each party. We have handed out your material to everybody, so you can start now. Thanks.

**Mr. Geoff Stiles:** Thanks. Just by way of introduction, I'm a volunteer on the Ecology Ottawa transportation committee. With me is Trevor Haché, who is the policy coordinator for Ecology Ottawa. When we get to the question period, Trevor will be available to answer questions, as well as myself.

I'll try to get through this as quickly as possible, and I apologize for having to read it. Ecology Ottawa is a not-for-profit, grassroots, volunteer-driven organization working to make Ottawa the green capital of Canada. We focus on climate change as the key environmental challenge facing the city and have identified smart growth and sustainable transportation as one of our key priorities. We aim to help Ottawa adopt a sustainable urban form based on compact, complete and public-transit-supported communities, and as that would suggest, our emphasis in this presentation is on the national capital region.

The presentation to the committee today is focused on asking the government of Ontario to give the city of Ottawa the legislative and regulatory tools it needs to shift towards a user-pay approach to roads in an effort to discourage as much private automobile use as possible. This is consistent with the city of Ottawa's existing

policies of encouraging more environmentally and financially sustainable modes of transportation.

Our starting point is the recent suggestions by Premier Wynne, and Don Drummond prior to that, as well as the Toronto Board of Trade and Metrolinx, that congestion charges, road tolls and other innovative revenue sources based on the user-pay principle could potentially be used to fund new public transit investments.

Ecology Ottawa supports the introduction of such options as part of a broad package of sustainable transport solutions. We see user pay as a way of ensuring that the costs of transportation are in fact more equitably distributed. We note as well that this is a more economically efficient means of funding public transportation, and addresses the criticism that inner-city residents in Ottawa are being made to bear a disproportionate share of the financial burden of reducing traffic congestion, which is caused primarily by the influx of automobiles from suburban commuters.

We also recognize, however, that user-pay systems cannot be successfully implemented unless they are part of a larger planning process which ensures that other preferred, non-private automobile transportation policy options are available and that infrastructure exists to encourage them.

Ecology Ottawa's own research suggests that ongoing dependence on and subsidization of private automobile transport is at the core of the city of Ottawa's problem. A not-often-discussed but critically important point is that the construction of new roads in Ottawa is largely covered by development fees, but the funding source for the operation, maintenance, repair and retrofitting of those roads is primarily the property tax system. This means that these costs are shared across a broader spectrum of Ottawa citizens than those who use the roads most frequently and cause the most damage to them. Through their property tax payments, Ottawa residents, whether they are motorists or not, fund the operation, maintenance, repair and retrofitting of 5,000-plus kilometres of roads that the city of Ottawa operates and maintains.

Ecology Ottawa feels that using the existing tax base to pay for the ever-expanding road network here is not sustainable unless taxpayers and politicians resign themselves to major property tax increases in the years to come.

Currently, the city is updating its official plan as well as its transportation, pedestrian and cycling plans. It is our hope that this opportunity will be used to achieve a better balance between road expenditures designed primarily to benefit motorists and expenditures to encourage the preferred and sustainable transportation options such as public transit, cycling and walking. If we can encourage more use of these options, we will also reduce greenhouse gas emissions, air pollution and related health care costs.

We're very encouraged by the fact that the city of Ottawa, in its preliminary policy proposals—

**The Chair (Mr. Bas Balkissoon):** You have about a minute left.

**Mr. Geoff Stiles:** Fine—related to the 2013 update of its official plan and transportation master plan has committed to exploring a range of user-pay approaches to funding transportation infrastructure.

I'll just summarize briefly the last part of this. You can read it if I don't have time.

You'll see that we also are very active in a number of other areas that are complementary to the user-pay issue: development of a complete streets policy, promotion of transit-oriented development and limiting further expansion of the urban boundary in Ottawa. We are very concerned and feel the need to call for the full life cycle cost of road projects to be factored into the decision-making process at all levels. We think these funding decisions should also be made with full consideration of the many negative social and public health ramifications of the private-automobile-centric status quo.

In conclusion, I just want to repeat what I said at the beginning. We're asking the government to give the city of Ottawa the legislative and regulatory tools it needs to shift toward a user-pay approach for roads in an effort to discourage as much private automobile use as possible. Thank you very much.

**The Chair (Mr. Bas Balkissoon):** Thank you. We will move to questions. We'll start with the government.

**Mr. Mike Colle:** Thank you very much, Geoff, for being involved. It's MPP Mike Colle. I'm happily married to a young lady from Ottawa, so I know a little bit about our nation's capital.

As you know, Ottawa to me is really a leader in Canada in many ways: what you're doing with your cycling policies and you're basically a very, very active city—a lot of walking and jogging. On the other hand, it's a very schizophrenic city. You made the huge mistake of moving your railroad station out to Alta Vista. That was probably the greatest planning blunder in the history of Canada; you should've never done that, although you did something good by making Sparks Street a pedestrian mall. Then you had the double-clutching of the light rail project. I don't know where that is at right now. I think Ottawa represents a lot of the same things that we're all going through trying to make up our minds on how we're going to solve our transportation problem. Then you have an expressway right through the middle of the city, which is bizarre. Then you have the canal. Anyway, sorry, Geoff. That's what I mean: Ottawa has got a schizophrenic planning history.

But I do want to ask you the key question in terms of revenue tools. You talk about the life cycle of building highways. How do we incorporate that? That's the issue. It costs so much money to build the highways, but then as you know, there's the constant repair given our climate with the ice and snow and salt etc. How do we get an understanding of the long-term costs of maintaining highways, and how do we incorporate that information into our discussion?

**Mr. Trevor Haché:** If you wouldn't mind, Mike—it's Trevor, the policy coordinator at Ecology Ottawa—I'll take a crack at answering that.

Certainly we think that the Metrolinx suggestions in terms of investment tools short list that they've come forward with earlier this month related to the Big Move are a variety of things that would help the city of Ottawa pay for the full life cycle costs. Unfortunately, right now the government of Ontario has not given the city of Ottawa the legislative and regulatory tools to implement these various investment tools. Certainly we think that the city of Ottawa is filled with very mature and knowledgeable citizens who can and should be allowed to engage in an adult debate about sustainable transportation and how to fund public transportation and the various road networks moving forward.

What we're hopeful for is that the government of Ontario will move forward with something similar to what you've done for Toronto in terms of giving the major city of Ottawa a little bit more in terms of legislative and regulatory tools for its toolbox to use to deal with these issues.

**Mr. Mike Colle:** So basically, Trevor, what you're saying is the committee should look at the fact that the one-size-fits-all approach may not work. What may help in Toronto may not help in Hamilton or help in Ottawa, so we should be looking at that kind of flexibility in letting some of the local regions decide some of the best ways of dealing with their transportation realities rather than having everything done from a cookie-cutter approach from Toronto.

1650

**Mr. Trevor Haché:** Certainly, it would seem that each city across the province, each municipality, is different, and so investment tools that might work in Toronto may not work in Ottawa. At the same time, they could very well work here.

What we're trying to emphasize is, give the city the legislative and regulatory tools to move forward with any number of these investment options and let them decide. There would obviously, I'm sure, be a fulsome debate that would occur. But right now the city is kind of handcuffed in terms of having these massive investments that are needed to operate and maintain the roads and yet not really currently having any way to raise the money to do it.

**The Chair (Mr. Bas Balkissoon):** We have 30 seconds left.

**Mr. Mike Colle:** And I guess you still have that issue about all the Quebec construction workers coming across the border every day, clogging up Ontario roads. They're not paying any taxes of any kind. How are you ever going to get them to share in the cost?

**Mr. Trevor Haché:** There's certainly a lot of cross-border traffic, and that's a problem. Hopefully, with some of these investment tools, whether it's a property tax or highway tolls or bridge tolls or fuel tax, maybe some of those things would have an impact on that cross-border traffic.

**Mr. Mike Colle:** At the Champlain bridge you've got to start, I guess.

**The Chair (Mr. Bas Balkissoon):** We have to move on. Geoff and Trevor, thank you very much for your input. We'll just move to the next party, the questions from the Conservatives. Mr. O'Toole.

**Mr. John O'Toole:** Yes. Thank you very much, Geoff and Mr. Stiles. It's a pleasure to meet you and in a general sense just to acknowledge your presentation. Thank you for the printed form. It's very important.

I don't think you'll find too many people disagreeing with the goal of the greenest city in Canada. It has all the money. They collect it. That's a bit of humour.

I would say that the sustainable urban form is an important discussion from a city perspective. I think the city of Toronto ranked amongst a number of leading cities in the world. I think Ottawa—I'm quite familiar with Ottawa as well. It's a laudable goal to try to rally people around a vision. Jim Watson served here as Minister of Municipal Affairs, and it has been a long battle about transit in Ottawa and trying to sort it out.

But I think you mentioned the key words to it all: the intensification, densification, shared-use residential and commercial. That cultural buy-in is very important. Education is where you're at now, and I think you have to educate the people, especially my generation, perhaps Mr. Colle's generation, Mr. Bartolucci I suppose, too. They like a bit more space.

I am familiar with density and intensification, having just been in Hong Kong. There's seven and a half million people in a space smaller than metro Toronto. It's the most efficient place I've ever been in my entire life. It's doable, but it's a cultural thing. We're a long way from there, to be honest.

Now, on the user pay thing, I probably agree with that too, because some of the material I've read on this is on charging people by vehicle miles travelled; it's called VMT. I think that's going to be one of the future models. It makes sense.

It's going to be difficult to tax—because it is a tax—people for infrastructure they think they've already paid for. But they don't realize, and they think—this is where the government, the Ministry of Transportation is here, has a job to do as well.

I'll give you an example. Gasoline: When they initiated the HST, if they had any vision at all, they could have realized that with every gallon of gas sold, and diesel as well, the government was getting 10 cents more. People were calling my office and saying, "How come gas has gone up so fast?" It was the HST. That's right. And not only that, it's a tax on a tax. That's about \$2 million.

I'm going to ask formally for Mr. Richmond, an excellent researcher, to get us the number, how much has been collected in gas just on the HST portion alone. The reason I say that is we have to allocate existing money. If I talk to my 128,000 constituents in Durham riding, which is a mix of urban and rural—it's typical of most ridings. Mr. Bartolucci is a former minister, and he lives in the Far North. You couldn't get anywhere without a car. You'd die; it's that simple. In my riding, 60% of the

area of the riding is rural. The average footprint of a farm is over 1,000 acres; some are 6,000 acres. On a concession where you had 10 families with 100 acres, now you have one farm with 1,000 acres. Small-town Ontario can't support this new tax base. There couldn't be an agricultural dealership, because you'd have one inventory and it would be a million-dollar tractor. So it has changed.

The fact is that they must have vehicles and sustainable roads, because that's where the infrastructure is.

**The Chair (Mr. Bas Balkissoon):** One minute.

**Mr. John O'Toole:** I'm giving them the picture that there's no simple solution here. You need tagged money for users pay, but all I'm hearing right now is that Metrolinx wants 50 billion new dollars for metro. That's not Sudbury; that's not Ottawa; that's not Durham.

I'm saying I think you've got a great vision. You get Mr. Chiarelli and other members up there—Lisa MacLeod—to commit to some of the money here in Ontario from the HST on gas, and you'll be well on your way to having a sustainable source of revenue. Keep up the good work.

**The Chair (Mr. Bas Balkissoon):** Thank you. We're going to move to the third party. Rosario?

**Mr. Rosario Marchese:** Thank you, Geoff and Trevor. I appreciate the argument you're making around shifting toward a user-pay approach for roads, and also your support for the development of a complete streets policy, promotion of transit-oriented development and limiting further expansion of the urban boundary. I think all of these things are happening, perhaps at a very, very slow pace, but they are happening, and I think there is growing support for a lot of these ideas.

One of the things that I wanted to ask you about—it's true that when we think about Metrolinx and their proposal, there are a lot of big-ticket items that are going to be very costly, that we're all going to have to deal with. It's a \$50-billion investment that we're going to have to make over a 25-year period, plus \$20 billion of operational expenses, and I suspect that number will grow as we get on with the jobs. These are just projections we're making, but it's going to be a lot more expensive than that, I suspect.

But as we talk about these big-ticket items, sometimes what we miss are some other suggestions or incentives that we could give or provide by way of government initiatives or by way of business initiatives that are fair and would make it easier or more affordable for people to leave their car at home. Have you given any thought to what some of these ideas might be?

**Mr. Trevor Haché:** Certainly. It's Trevor speaking again. Thank you for the important question. There are a lot of cities and jurisdictions around the world that are actually experimenting with free public transportation to really drive up usage. If the city of Ottawa were given more regulatory and legislative tools, it could, for example, reduce the cost of public transportation if it chose to do so, if it was really interested in dealing with gridlock and sustainable transportation and encouraging that as much as possible.

Our concern is that right now the city does not have those legislative and regulatory tools to raise that initial money, and yet there's a responsibility, I would think, within Ontario. We're one of the wealthiest jurisdictions in the country and in the world. When you look at the global south and the fact that people there are experiencing the worst consequences of climate change, we really have a responsibility here in Canada, in Ontario and in the city of Ottawa to do our part to reduce our carbon footprint. So our priority is asking the government of Ontario to give the city the regulatory and legislative tools that it would use to really drive up the use of public transportation and cycling and pedestrian infrastructure.

If you look at the city of London, England, for example, the Conservative mayor there has recognized the cost-effectiveness of investments in cycling infrastructure, and recently announced a plan to invest over a billion dollars over the coming years in cycling infrastructure. If the city of Ottawa were given more tools to raise funds, it could perhaps do something similar. There would be a co-benefit of that in that it would encourage a lot of people to get on their bicycle, and that would lead to more active lifestyles and fewer payments in terms of the government of Ontario having to deal with the health care costs—not only associated with obesity and inactive lifestyles, but also, we need to remember that air pollution from tailpipes, that we all are contributing to when we drive our cars, is costing the government of Ontario massive amounts of money to treat premature death and disease related to air pollution coming out of the ends of our tailpipes. We've certainly got nothing against motorists—

**The Chair (Mr. Bas Balkissoon):** We have one minute left.

1700

**Mr. Trevor Haché:** I myself am a motorist. It's very clear that people in some circumstances need their cars, but what we want to ensure is that the full life cycle cost of providing them the infrastructure to use those cars is factored into the decision-making process with regard to which types of road projects are funded by the Ontario government.

**Mr. Rosario Marchese:** Thanks, Trevor. We don't have much time, but I did want to ask you about the transit-pricing approach that's used in Ottawa. Can you tell us briefly how that is holding up? What are the pros, the cons—who's happy, who's sad, who's mad?

**Mr. Trevor Haché:** As far as I know—I'm not sure if I understood the question, but the cost of a cash fare to ride the bus here in Ottawa is amongst the most expensive in the entire country. I understand that there are other jurisdictions that are really trying to make public transit more affordable for people to ride on, and we would certainly like to see the province give the city the tools that it needs—

**The Chair (Mr. Bas Balkissoon):** Geoff, it's the Chair here; I have to cut you off—Trevor, I should say. I just want to—

**Mr. Mike Colle:** Can I add that they should have also built the hockey arena downtown—

**The Chair (Mr. Bas Balkissoon):** I have to keep time on the clock.

**Mr. Mike Colle:** That would have helped the traffic problem.

**The Chair (Mr. Bas Balkissoon):** Geoff and Trevor, I want to thank you very much for your input. We have to move on to the next presenter. Thank you very much.

**Mr. Geoff Stiles:** Okay, thank you.

#### TRANSPORT ACTION ONTARIO

**The Chair (Mr. Bas Balkissoon):** The 5 o'clock deputant has cancelled, so we'll move to the 5:20 deputant, Transport Action Ontario, Mr. Peter Miasek. I hope I pronounced your name correctly.

**Mr. Peter Miasek:** Yes.

**The Chair (Mr. Bas Balkissoon):** I understand you want to take a photograph, so if you could do it discreetly, quickly, that would be great.

**Mr. Peter Miasek:** I'll start talking. Will this count on my time or not?

**The Chair (Mr. Bas Balkissoon):** Yes.

**Mr. Peter Miasek:** Okay. I'm Peter Miasek, president of Transport Action Ontario. We are Canada's oldest and largest non-government organization focusing on sustainable transportation. We spoke to you last year on a different topic.

You've got our brief in front of you. You've heard a lot about urban transit as a solution to congestion; we want to talk about the other side of public transit, namely intercity passenger rail and bus. Briefly, it's a shambles. VIA Rail implemented serious cutbacks last year, on top of the cuts they did in previous years. Service is now drastically down from what it was in the 1980s, and you'll see that in our brief. Of course, Ontario completely killed the Ontario Northland route up to Cochrane. Inter-city bus is also in decline, as Greyhound keeps cutting back.

This has caused a lot of hardship. There is economic hardship and there is personal hardship. There was an article in the Toronto Star on March 17 about various folks in Welland who can no longer work in Toronto because they can't get there in time via rail or bus. The problem is even worse up north. It's hard for us to fathom why these declines are happening. All the stars and planets seem to be aligning in favour of more inter-city passenger service: increased urban congestion; increased corporate tendency to locate where there's good transit and good intercity connectivity; aging demographic—folks like me with gray hair who don't wish to drive and would rather take the train or bus; increasing energy costs and costs of auto ownership; and increasing environmental concerns. Canada is the only G8 country that is not investing heavily in intercity rail. Why are we going backwards?

We, Transport Action, initiated a public awareness campaign last summer called National Dream Renewed. It's designed to educate the public and elected officials that it doesn't have to be so. We've been holding town

hall meetings across the province, normally hosted by a local member of Parliament or a mayor. We've been to Sarnia, Stratford, Kitchener, Welland, Kingston, Sault Ste. Marie and Thunder Bay, and we'll be in Toronto next Saturday. What we've heard is very sobering: individual commuting challenges like the folks in Welland and real cases of personal tragedy as family connections are lost. Also, mayors are very concerned that their cities are being isolated and will lose jobs or residents. It's just incredible, for example, that Stratford does not have a convenient train service for theatre-goers from the GTHA. We've definitely tapped into a major ground-swell of public discontent. Our goal is to make this an election issue, both federally and provincially.

Okay, so what can the province do? Four specific recommendations: First, formally declare a provincial interest in intercity passenger rail and start working together with the feds on an agreement on passenger rail. Normally the province has backed away from VIA Rail; that's a federal responsibility. But there are precedents in Ontario and good reasons why the province should get more active. There's a very nice model in the States that Amtrak has where they work together on agreements. It has been very successful, and there's information on that in our brief.

Second, create a Metrolinx North to plan and coordinate rail, bus and ferry operations in the north. The vision we see is a rail spine with bus feeders. Also included would be mobility hubs. For example, it makes no sense that Sudbury has two VIA stations, one Greyhound bus station and a transit terminal, all many kilometres from each other.

Third item: Declare a provincial—

**The Chair (Mr. Bas Balkissoon):** You have a minute left.

**Mr. Peter Miasek:** One minute? I think I can just make it. Declare a provincial interest in all future short-line rail abandonments. The major freight railways are shutting down their branch lines, and often no level of government is stepping in to preserve these, so they get converted to trails and are lost forever. CP's branch line from Smiths Falls to Mattawa—when you lost that, that was a national tragedy. All of CP's freight now goes through next to two nuclear plants and through the GTA. We ask rhetorically: Why would the province ever allow this? They would never abandon a highway corridor, and they shouldn't.

Our last point describes various ways that VIA Rail and GO Transit can work together operationally to reduce costs, consistent with the Drummond report.

So, four specific recommendations, all of which are doable, and we urge the province to get working on all of these. I'm done.

**The Chair (Mr. Bas Balkissoon):** Thank you. We'll move to questions. The opposition: Mr. Milligan.

**Mr. Rob E. Milligan:** Yes. Thank you very much for coming here today. It's greatly appreciated. I have a couple of questions. I'll try to get through a few of them. One of the first questions I have is, we've heard a lot

about the importance of the Ring of Fire and the development of what that potentially could be for the province of Ontario. What would you say would be the best mode of transportation—the most cost-effective, environmentally sound and socially responsible—road or rail?

**Mr. Peter Miasek:** I think, in general, rail has got it beat on all counts. This would be part of the Metrolinx North agency, of course, to figure out where to put it, where it connects to, etc. If my colleagues have anything to say on either of these items, please chip in.

**Mr. Greg Gormick:** The Ring of Fire is an obvious one for rail service. This is a green field, if you like. So, what? We're going to go and do what we did all over here? We're going to put the highways in and we're going to obliterate the environment and we're going to have a system that doesn't operate at maximum efficiency? It has to be rail. It could be connected directly to our poor, beleaguered Ontario Northland, which sure could use some help right now.

**Mr. Rob E. Milligan:** Okay. Another question I have here is: Has anyone done a recent cost-benefit analysis on intercity passenger rail or bus?

**Mr. Peter Miasek:** We figured that might be asked, so I'll have Greg answer that one.

**Mr. Greg Gormick:** Not in Canada. We have fallen way behind in studying these things. It's funny, though, for the land of free enterprise, look south. If you'd like, I'll send you some of the material. The one I always think of is a thing called the Downeaster, which is a service from Boston to Portland to Brunswick, Maine. There have been full studies done on that that have shown the impact. The one thing I always mention—I know it's nice to talk about the environment; it's important. But trains are economic builders. That's the whole point. I wrote the concept plan for the Conservative MP—I'm not of any party, I should mention; I've worked for all three of you at different times—from Peterborough. He's a car dealer, as a matter of fact. He wanted a plan to bring service back to Peterborough. I called it This Train Means Business.

The US Department of Commerce will tell you that in any rail passenger project, for every dollar you put in, you're going to see three to four dollars' worth of economic development. People always say, "Oh, rail passenger service: It requires a subsidy." I heard something here earlier about some investment in highways, but that was an investment. Why is a subsidy what we talk about with the railway? Railways are economic builders. We get a lot back.

1710

**Mr. Peter Miasek:** We would certainly support a cost-benefit analysis. You have to put in the intangibles like less accidents, less air pollution, less congestion. Those all have costs that need to be included in a cost-benefit.

**Mr. Rob E. Milligan:** Okay, good. Would you be able to tell me a bit more about your National Dream Renewed campaign?

**Mr. Peter Miasek:** Greg is the program manager.

**Mr. Greg Gormick:** That's the campaign I've been running. We had advanced notice that the federal government was going to cut VIA's budget, and VIA in turn was going to cut services. So we decided, because rail passenger service has always been at the core of Transport Action—we were formed in 1976 as Transport 2000, on the recommendation of the head of the railway transport committee of the CTC. Rail passenger we see as being the spine of any national transportation system. Knowing the cuts were coming, we realized most people don't understand the VIA situation. It's very complex; it's very political. We figured it was time—this is really the last time. In 1976, when the CTC had their transcontinental rail passenger hearings in advance of the creation of VIA—

**The Chair (Mr. Bas Balkissoon):** You have one minute left.

**Mr. Greg Gormick:** —the word that came back from the people was, "Rail service is at an irreducible minimum." It's below that now.

We're out there to try and educate the public and get feedback because in the end, since government hasn't done it ever, we're going to create a vision plan, a blue-sky vision for VIA, so that we can be part of the group of G8 nations who are all investing in rail passenger service logically and wisely.

**Mr. Rob E. Milligan:** Thank you very much.

**The Chair (Mr. Bas Balkissoon):** We're going to move to the third party.

**Mr. Rosario Marchese:** I want to congratulate and thank Transport Action Ontario for all the great work that you do. Obviously, five minutes or just 10 minutes isn't enough for people like yourselves, who have so much expertise.

I appreciate the presentation. By the way, I like the idea of a Metrolinx North. I'm not going to ask you about that, because I already read it and it's a good idea.

**Mr. Peter Miasek:** I don't think they'd be operators, but they'd certainly be coordinators.

**Mr. Rosario Marchese:** I like the concept. But I want to ask you something that many of you have expertise on. Are there low-cost ways to make better use of existing rail lines?

**Mr. Greg Gormick:** Absolutely. Part of the problem we have in Canada is that we haven't—there are two parts in any public transportation system. The first thing you have to establish, and I think we're all mature to finally admit it: Every form of transportation in this country and in every nation somehow runs with a subsidy. We have completely blurred the lines. I have people say to me, "Oh, a subsidy for rail passenger service? It should be profitable." There's no such thing as a profitable rail passenger system. Certain lines, or any highway, or any air system or any public transportation system: If we followed that line of reasoning, I could get rid of a lot of things and it would save us money. Let's get rid of police, emergency services, hospitals, education. It's what they put back into our communities.

The problem we have with rail passenger service nationally is that we've always given them subsidies to operate the systems without modernizing them. It's the old song Love and Marriage: "You can't have one without the other." If you're going to run a system that is continually aging and not being renewed, it's going to get more and more expensive, until you get to the point where someone can say, "It's just out of line." That's exactly what happened with Ontario Northland. That service should have been modernized decades ago. Instead, the operating costs went sky-high. There are horses for courses. We need modern equipment.

Take a look at the TTC. Look at how they invest, the increasing investment. Look at GO Transit. GO Transit runs modern equipment. If they were running that service with that crummy old single-level equipment, which got stuck on Ontario Northland, that was built in the 1970s—the costs of running GO Transit would have gone through the roof.

We need to invest. It can be the most cost-effective form of intercity transportation, but this iron horse needs to be fed. In Canada, it hasn't been well fed for decades.

**Mr. Peter Miasek:** And there's a provincial role in that.

**Mr. Andrew Schulz:** Can I just add one comment to that? A previous deputant from the automobile dealers association was advocating building more highway infrastructure. We have existing rail infrastructure. I agree with your premise: Let's use it. If you go along many rail corridors, they're highly underutilized. People died in the 19th century building these things. Let's honour their memory and use them adequately, before we go off and build something brand new from scratch.

**Mr. Greg Gormick:** And a double-track railway with signalling has the capacity of a 16-lane highway. Can you imagine what would happen if we didn't have a four-track main line heading west out of Toronto with those GO trains? It would take 32 lanes of traffic to duplicate what GO Transit delivers every hour.

**Mr. Rosario Marchese:** Tell me, you probably had discussions with government people over the years, maybe over the last 10 years, about high-speed rail. Have we made any progress?

**Mr. Greg Gormick:** No, and we've done it the wrong way, because we always talk about big bang high-speed rail like we're suddenly going to have the shinkansen system all over southern Ontario. Well, if you look at the rest of the world, they knew you had to walk before you ran. We have a minimal rail passenger service even in the Quebec-Windsor corridor.

If we were to do what the Obama administration is doing now, they're saying "higher-speed rail." We want to go from 80 miles per hour to 110, then from 110 to 125, and at that point, we electrify. And then when we get to the point where we have saturated those lines, then we talk about the new route segments. But they've taken an incremental approach. Instead, we have this idea that we're suddenly going to build these huge new systems—\$30 billion to \$40 billion to build a high-speed electrified

line just in the triangle between Toronto, Ottawa and Montreal. But that kind of money spread across the system on various corridors—there are other corridors in this country that would justify investment, and it's frequency, it's speed. I call it "higher-performance rail."

A colleague of mine in the United States has come up with this concept and he says: "You know, an airline doesn't just sell speed. They sell comfort, ticket price, frequency." That's how we need to look at the improvement of rail passenger corridors, to work towards that day when we can, perhaps, have a 300-kilometre-per-hour service. We need to hit a few steps before we get there.

**Mr. Peter Miasek:** And I just want to remind you the province needs to declare interest in intercity rail.

**The Chair (Mr. Bas Balkissoon):** Thank you. I have to move on.

**Mr. Rosario Marchese:** Thank you very much.

**Mr. Greg Gormick:** Thank you.

**The Chair (Mr. Bas Balkissoon):** The government side, Mrs. Cansfield?

**Mrs. Donna H. Cansfield:** Thank you very much. Thank you, gentlemen, for your enthusiasm. It's delightful to listen to you.

I had the pleasure of working with Cliff Mackay for many years, an extraordinary gentleman. I think of the first time we met. I got on a train that he had arranged in Ottawa, with cargo, and up in the engine—I thoroughly enjoyed myself. And I ended up with a whistle to boot, which was nice.

It's interesting when you talk about the investment and the need for rail. I can share with you that the reason I had met with Cliff in the first place was that as Minister of Transportation—and it is the Liberal government that put in the concept of multi-modal and hubs and looking at the whole concept of how to improve transportation through the hub idea—is that we actually had to put rail and air back into the Ministry of Transportation because the previous government had removed both of those desks. In fairness, part of the reason really was more—and I will say this—on the issue of cargo movement than it was on passenger movement when we were talking about rail. And it was the logistics industry that we were working with because we knew how much we could move by rail. Of course, there are some things you can move by rail—or by boat—that you can't move by truck.

So we embarked together on how we could work with Transport Canada. Because as you know, they play an integral role in the whole railway system. It's not like Ontario can unilaterally make these decisions.

It was interesting to note that in your deputation that federal presence has to be there or in fact we cannot proceed, and know whether it's on rail or whether it's on air or whether it's on that H<sub>2</sub>O highway—all of them. But I did like your concept and, again, I share with you because it's one we adopted on the multi-modal. I would be interested—and I think Minister Bartolucci would share with you the work that he has done in the north, in particular on that whole concept, and I believe it's still

well under way—on how to improve the challenges facing the north for transportation.

So I really would be interested on your concepts of hubs. When I look at hubs, I mean really, truly "multi-multi-hub," so rail, air—because we have the Great Lakes—obviously the train system and of course the road system for logistics, and how you see an interconnection especially in the north and how that can be improved.

**Mr. Andrew Schulz:** Can I give an example of two cities that I'm familiar with in the north: Sudbury and North Bay? Sudbury, as Peter outlined earlier, has four terminals: two VIA stations; an intercity bus terminal—I believe on the Greyhound set-up; and its municipal transit terminal, which are all located in different locations.

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North Bay, Ontario, is much better, because the province invested there many years ago to put in a station for the Ontario Northland railway, which also serves as a terminal for intercity buses. I believe we should use models like that, where the province puts an effort into maybe setting aside some infrastructure funding to construct terminals like this, and they should ideally be located downtown.

**Mr. Mike Colle:** Unlike Ottawa.

**Mr. Andrew Schulz:** Yes, exactly. Actually, in North Bay the intermodal terminal is not downtown. It would be better if the city's municipal terminal were also there.

**Mr. Peter Miasek:** Let me just pick up on that. We're a poor NGO, so we'd certainly be thrilled to work with MTO on our ideas or present them. I don't think we have the resources to do a full study without more expertise and money than we've got at this point. So as a follow-up, what do you recommend we do as a next step? Contact someone in MTO?

**Mrs. Donna H. Cansfield:** Absolutely. As we move forward on the whole multi-modal process—and it is ongoing—I think what you have to offer is of significant value in how we proceed with transportation in the north.

**The Chair (Mr. Bas Balkissoon):** You have 30 seconds left.

**Mrs. Donna H. Cansfield:** We spend a lot of time on gridlock in the south; there's a different kind of gridlock in the north.

**Mr. Peter Miasek:** We'll send you an email and start a dialogue, and you can flip it on.

**Mr. Mike Colle:** Is the VIA train from Toronto to Brantford still running?

**Mr. Greg Gormick:** Yes. Through Brantford the service is okay, but the service up through Stratford and Kitchener is a shambles, and we now have places like Sarnia where they've gone from four round trips a day several years ago to one round trip, and they've lost their bus service. I've seen this, because I've been across the country—at least from Halifax to Thunder Bay on this campaign. All across the country, the bus system—

**The Chair (Mr. Bas Balkissoon):** My apologies. I have to move on. Thanks very much for taking the time to be here.

## CARPENTERS' UNION

**The Chair (Mr. Bas Balkissoon):** Our next presenter is from the Carpenters' Union: Mr. Mike Yorke. You can introduce your guest. You have five minutes for your presentation, and then we'll go to questions—five minutes from each party.

**Mr. Mike Yorke:** All right. I'll do that. To the members of the committee, thank you very much. My name is Mike Yorke. I'm the president of Carpenters' Local 27, and with me is Andy Manahan of the Residential and Civil Construction Alliance of Ontario. I'll do a short presentation and Andy will probably pick it up for one or two minutes, and then we'd field the Q and A together.

First, I'd like to say that the Carpenters' Union is glad to be here to urge the provincial government to take immediate and direct action that's required to alleviate the tremendous traffic gridlock in the GTA. We feel that the streamlined implementation of the Big Move, proposed by Metrolinx, is the most effective way for government to do this.

You may understand that I'm the president of Local 27 in Toronto, but our organization is clearly provincial. We have over 22,000 members in the province, working in all sectors of the construction industry. Feel free to take a look at our materials both here and later on. You can get a good sense of what the Carpenters' Union does and our commitment to training, our commitment to youth, our commitment to the future of this industry through developing training programs that, of course, are for our young people but also for returning Canadian soldiers under the Helmets to Hardhats program, and we have a great training program for youth from communities at risk, known as CHOICE, which is parallel to the building trades Hammer Heads, which you may have heard about.

In terms of the congestion and the traffic gridlock, government and many groups have all looked at this, but based on many studies and reports, we know that the average commute for Torontonians has risen to 80 minutes. Toronto is now one of the worst places in North America for commuting, if not the worst, equally bad or maybe worse than Los Angeles. Also, pollution caused by traffic congestion has led to about 400 premature deaths annually and 1,700 hospitalizations in the city on an annual basis.

The OECD has released a report that determined that the annual costs for commuters in our region have reached about \$2.73 billion, and our Toronto Region Board of Trade has highlighted the lost productivity, which is estimated to be about \$6 billion annually. Over the last number of years, these reports have made clear what many people of Toronto already know: We really need to do something about traffic and gridlock congestion.

The Carpenters' Union would like to recognize the work done by Metrolinx—that's an agency created in 2006 by the Ontario government—and we hope that a number of its proposals can be implemented. A \$50-

billion transportation plan adopted by Metrolinx called the Big Move represents the most substantive and ready-to-implement plan currently before us today. We know that the government has already committed over \$11 billion to implement the plan, and we encourage the government to continue to invest.

In terms of construction jobs, we agree with Metrolinx statements that it will create thousands of jobs in terms of the 19-kilometre Eglinton cross-town LRT.

Other upcoming projects within the Big Move include the Sheppard East LRT, the Finch West LRT and the Hurontario-Main LRT. We recognize that that will create thousands of jobs and spin-off in the economy that benefits all Torontonians—and, in fact, actually, all of Ontario.

To ensure the most bang for the buck in terms of Ontario's economic benefits, we believe that there are a number of other proposals that need to be looked at as well.

**The Chair (Mr. Bas Balkissoon):** You've got another minute.

**Mr. Mike Yorke:** Another minute? We would say that contracts should be awarded to Ontario-based companies or consortiums, ensuring that employment opportunities which arise from awarding these contracts are provided to Ontarians, and possibly to require project labour agreements. Also, proponents and successful bidders must be made to ensure that their job site personnel have proper health and safety training.

There's probably another group of proposals that we can deal with under the questions and answers, but I'd like to give Andy a little bit of time to make a few comments.

**Mr. Andy Manahan:** Last Friday, I gave a pre-budget submission to Minister Sousa, and I've been banging the drum on this for the last couple of months. I know the committee has heard a lot. The dedicated funding is very important to get the public onside with whatever the revenue tools are. My suggestion is that in the upcoming budget, an account be created where the funds, once they've decided—once Metrolinx has submitted its investment strategy and once there has been some more dialogue on which ones are the best ones to go forward with—that that account could be used to be a transparent—

**The Chair (Mr. Bas Balkissoon):** I'm sorry. I have to stop you here and go to questions.

**Mr. Andy Manahan:** Okay. Maybe we can get that during Q&A.

**The Chair (Mr. Bas Balkissoon):** The third party?

**Mr. Rosario Marchese:** Thank you, both. It's good to see you again, Michael. You're everywhere these days. I don't know how you divide yourself into so many parts.

I agree with the comments you made about construction jobs. It's not just construction, but if we have money for subways, and when we build subways, it's good, and when we build trains, it's good for jobs as they relate to trains—buses as well. It's a big creator of jobs all around, and we agree with you on that.

I don't know that you got a chance to talk about this: "Ensuring that the contracts for the building of these systems are provided to contractors that hire local workers, provide the best health and safety training, and benefit local communities...." You didn't get a chance to talk about that. I wanted to ask you about that. So, please, if you have something more to add.

**Mr. Mike Yorke:** We think that that's a real advantage for the Ontario economy. We have many world-class contractors, but also we've made a strong commitment to health and safety training. Many of the contractors that are locally based have made a real, clear commitment to employing returning Canadian soldiers under the Helmets to Hardhats program, as well as opened the door to young people in our communities through the Choice program, through the apprenticeship program, and through what we call in the building trades the Hammer Heads program. In partnership with many locally based companies, we feel that we bring excellent value and quality to the equation, and we think that that needs to be recognized.

**Mr. Rosario Marchese:** So, tell me, you've probably had discussions with Metrolinx, and maybe the ministry and the minister as well, around these items, including local workers. Is there any positive feedback you're getting?

**Mr. Mike Yorke:** I think there is positive feedback. In fact, actually, we spoke at a public meeting recently with Metrolinx and there was very good feedback from Bruce McCuaig to say that that was going to be part of the overall approach. I think that there's some implementation of that in the York-Weston area currently. There's some ongoing communications with the community groups there, and I think that that plays real value into the local communities.

**Mr. Rosario Marchese:** Yes. I'm strongly supportive of that. That's why I was glad to see it and glad to know you were pushing it and promoting it.

You also had down the page, "Contracts should be awarded to Ontario-based companies or consortiums," and I don't think you had a chance to speak to that. Could you comment on that?

**Mr. Mike Yorke:** Well, let's put it this way: Our organization has been partners—we've been around this city for 130 years. Many of our contractors have been in existence for close to that, so they've made a real commitment to the health and the economy of this area, and we feel that there needs to be some recognition, as we're expending billions of dollars—\$50 billion in the Big Move.

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In fact, there's a very good comment by a journalist by the name of John Lorinc of Spacing and the Globe and Mail. What he looked at was the expenditure of over \$50 billion in the Big Move. After the shooting in the Danzig Street area, he proposed that the idea would be to take a look at employing young people from these at-risk communities, that maybe there's an opportunity there to send these young people on the right path. If we give them a

decent career in the construction industry and associated industries, that's a better career path for these young people.

There's no reason in my mind why we shouldn't take some of that equation and say, "Look, if we're spending \$50 billion, let's make sure the maximum people in our society benefit from that."

**Mr. Rosario Marchese:** Do you have a position on private-public approaches used by Metrolinx?

**Mr. Mike Yorke:** In the Carpenters' Union, no. Well, our position would be that we believe that in the funding of the construction, that's acceptable to us, because there is a track record in the health care system in Ontario. In terms of the operations and maintenance, we would have some concerns about that. But in terms of the funding of the construction, we don't have an issue with that.

**Mr. Rosario Marchese:** Thanks, Michael.

**The Chair (Mr. Bas Balkissoon):** To the government.

**Mr. Mike Colle:** Yes, just one correction here. On your brochure—you think we don't read your brochures, eh?

**Mr. Mike Yorke:** Uh-oh. Don't tell me that.

**Mr. Mike Colle:** An old history teacher, I used to live on Hocken Avenue—I think Greg Gormick would know this.

**Mr. Mike Yorke:** Okay. What do I need to correct?

**Mr. Mike Colle:** He was the mayor of Toronto, and he ran on the platform of building the decking underneath the Prince Edward Viaduct. He lost his first election. But he was the guy who had the foresight to say that when you're building that viaduct, some day in the future—back in 1913, he said it—maybe there might be a subway that would go across the Danforth across the Don River. Mayor Horatio Hocken stuck his neck out. Eventually, they did deck the viaduct underneath, so in 1964, when they came across the Bloor-Danforth subway, lo and behold, they had the decking done by good carpenters, and they were able to get across the Don River. So please ask your brochure maker to include Mayor Horatio Hocken, Toronto's mayor in 1913, for his foresight.

**Mr. Mike Yorke:** I gave all the credit to R.C. Harris. I'm sorry.

**Mr. Mike Colle:** Yes, too much to him. It was Horatio Hocken. I know that because I lived on Hocken Avenue. Anyway, that's a little bit of history.

The other thing is about the jobs in construction on building transit and transportation. How do we get people to understand that it's not just a tunnel boring machine—all the complex hard labour, the grit that goes into building these stations, moving utilities. I don't think we've done a good enough job over the years. It's the same with building highways. We never explain to people the number of good, high-paying jobs that are created when we build our highways and when we build our subways. Can we do a better job of trying to explain it to people? And it's not just—I know; I visited the site of the new Humber River Hospital. There's 2,000 people working on the site in the temporary offices doing all the

AutoCAD stuff, working in an office beside the guys pouring cement etc. for the hospital. How can we do a better job of explaining to people? Because people say, "We don't want to spend this money, because what's in it for us?"

**Mr. Mike Yorke:** You're absolutely right. That is a concern of ours. A lot of times, folks will look at the construction industry and say, "Well, those are just temporary jobs. Why do we need to make that investment?"

But as MPP Rosario Marchese also pointed out, we recognize that our industry is an incredible job generator. Every dollar spent in construction generates five or six other dollars throughout the economy, whether it's in the manufacture of facilities such as hospitals or in the buses or the transit systems.

I recognize what you've pointed out, and that's one of the reasons why we put together this brochure. We wanted to take a look at the history of our organization. We've been around for 130 years. People may not know that; they may not be aware of that. We wanted to point out that we've been around this city. We've contributed a lot, our members, over the years. But we also wanted to point out that we're involved in some fantastic projects. So when money is spent in the economy on transit, we're there. We're there from the beginning to the end. We also wanted to recognize the great work of the engineers and the architects and the other contributors to making a better society, and more green, infrastructure-wise. If it's going to be the focus on the transit side, absolutely, we want to play a role in that.

**Mr. Mike Colle:** I think also—

*Interjection.*

**Mr. Mike Colle:** Go ahead.

**Mrs. Donna H. Cansfield:** I just wanted to ask a question, because you identified in this wonderful Congestion Management and in your other—I think right at the end—

**Mr. Andy Manahan:** The Kitchen Lindsey report.

**Mrs. Donna H. Cansfield:** Yes—a number of strengths and weaknesses of the revenue—

**Mr. Andy Manahan:** Yes.

**Mrs. Donna H. Cansfield:** Have you decided—and I chuckled because I learned something I didn't know before, the tragedy of the commons—

**Mr. Andy Manahan:** Overgrazing.

**Mrs. Donna H. Cansfield:** Overgrazing.

**The Chair (Mr. Bas Balkissoon):** You have one minute left.

**Mrs. Donna H. Cansfield:** I wonder what the sheep are going to do.

Having said that, have you decided on what you think the best revenue instruments might be?

**Mr. Andy Manahan:** We're still having that discussion right now, but we have a general preference for user-pay, so dynamic road pricing, shaving off the peak hour. You're not going to really impact, for example, congestion through sales taxes or other measures like that. It has to be more direct.

**Mrs. Donna H. Cansfield:** Great. Thank you very much.

**The Chair (Mr. Bas Balkissoon):** We'll go to the opposition.

**Mr. John O'Toole:** Thank you very much, Mike, as well as Andy. I appreciate the thoughtful input. There are really two separate issues here.

I recognize, too, that the work that the Carpenters' Union has done and the importance of jobs and the creation of jobs. We could argue about whether they're protected by the kind of organizations you're with or not. I think we get by that if we really try hard enough to recognize we want safety, skills and efficiencies. We want all those things done in a safe manner.

**Mr. Andy Manahan:** Sure.

**Mr. John O'Toole:** And it's important. You need skilled trades and you need methods of training and all the rest of it. I am very familiar with the Hammer Heads program. I'm working with people in my particular riding. I spoke to them this past week about educating youth at risk. There's a lot of work being done; Alvin Curling is involved and others. I can tell you right now, I know a fair amount about it because I have a constituent in my riding, a skilled tradesperson, two trades, who has done it in Brockville, Windsor, all over the place.

This should be in the budget, frankly. I'm serious. They could get Andrea on side very quickly, and I'll tell you why. You have the infrastructure in place. We have the youth who have no employment; it's the highest single unemployed group. Skilled training and apprenticeships are the answer. We can get that done. They could put in the budget and it would solve one of the NDP asks for the budget.

But to get to the issue before us, I do recognize there's been some work done, Andy. I've looked at the report, as Donna has as well. One of the suggestions is congestion pricing. It's actually a significant idea. It's called demand-side management, technically. It's the same as they're doing with smart meters, really; it's the same deal. You manage activities by using different tools. They're not smart enough here to do that. The 407 does it; they have some movement of volumes by using tolling peaks.

Now, GO Transit could fill all of the trains by changing the price. Look, I use Presto; I use the trains. I talk to Bruce McCuaig pretty well every week.

**Mr. Mike Colle:** Who hasn't?

**Mr. John O'Toole:** No, no, I talk to him on the policy, not politics. Politics is 90% baloney.

But here's the real issue: I said to him that you cannot get on some of the trains at Oshawa, and they're full at Ajax or Pickering. I said, "If you change the price by five cents, you'll change behaviour. They'll take the 7:20 train." Do you understand? That's what you call demand-side management and that's—

**Mr. Andy Manahan:** At the back of the report, the Congestion Management report has a section on intelligent transportation systems—

**Mr. John O'Toole:** ITS is part of it.

**Mr. Andy Manahan:** —and that's to have open-source, using the wider universe of people to come up with apps that would tell you the train is congested now; you might want to try another time, and all sorts of things—

**Mr. John O'Toole:** And you could have an app on the iPhone.

**Mr. Andy Manahan:** All of that.

**Mr. John O'Toole:** There are people out there who have solutions. We had one the other day here, a group that was called the Chip group. They had a terrific idea and I hope somebody on the government side picked it up. It's also a tool that could be used to feed to the app about what trains are late or what—all of it could be done—

**Mr. Andy Manahan:** Could we call that the O'Toole?

**Mr. John O'Toole:** Yes. No.

**Mr. Andy Manahan:** Pun intended.

**Mr. John O'Toole:** There are two things I want to respond to—

**Mr. Andy Manahan:** It's late in the day.

**Mr. John O'Toole:** One of the tools they're going to have to use is user-pay. There's already work being done on it. It's called vehicle miles travelled. That has to be one of the tools that this committee, if they're going to do any genuine work—

**Mr. Andy Manahan:** I only have one for each party. This is—

**Mr. John O'Toole:** I've actually read a couple of reports online.

**Mr. Andy Manahan:** This is from the Rand Corp. It's about how to implement VMT or VKT, so I'll give one to each party and you can decide how you want to—

**Mr. John O'Toole:** I always say these things, Andy, because—

**The Chair (Mr. Bas Balkissoon):** One minute left.

**Mr. John O'Toole:** —I'm not hearing much of innovation. I'm hearing, "Let's keep doing what we're doing." Well, it doesn't work. It's all retroactive. It's all after the problem is out of control. Now, \$50 billion? Are you kidding? There's a lot of money being spent on advertising—

**Mr. Mike Colle:** Remember Horatio Hocken. They threw him out of office—

**Mr. John O'Toole:** I understand that, but this is \$50 billion. That's half the operating budget of Ontario.

**Mr. Mike Colle:** Remember Horatio Hocken.

**The Chair (Mr. Bas Balkissoon):** All right.

**Mr. John O'Toole:** Please, it's my time.

**The Chair (Mr. Bas Balkissoon):** Let's have order.

**Mr. John O'Toole:** I only put it out there because you have put a lot into this, both the presentations. The innovation part of it is the congestion management—that's very important—and also the skilled trades part. That's a given. You can't just have Joe Blow build this stuff.

The other one is the ITS. ITS could be—if you're going to toll roads, it has to be integrated with ITS. That's the only way you can move the volumes there, too. And there's a way of doing it—

**The Chair (Mr. Bas Balkissoon):** I have to cut you off.

Mike and Andy, thank you very much for coming. Thanks for your input.

This committee stands adjourned until Monday, April 15, at 2 p.m.

*The committee adjourned at 1741.*

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(Hansard)**

Monday 15 April 2013

**Journal  
des débats  
(Hansard)**

Lundi 15 avril 2013

**Standing Committee on  
General Government**

Automobile insurance review

**Comité permanent des  
affaires gouvernementales**Examen de l'assurance-  
automobile

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Monday 15 April 2013

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Lundi 15 avril 2013

*The committee met at 1400 in room 228.*AUTOMOBILE INSURANCE REVIEW  
FINANCIAL SERVICES  
COMMISSION OF ONTARIO

**The Vice-Chair (Mrs. Donna H. Cansfield):** Ladies and gentlemen, we're going to call the Standing Committee on General Government to order and our first presenter is the Financial Services Commission of Ontario, FSCO. I'll let the gentlemen introduce themselves. Thank you very much for coming. We'll have 10 minutes for presentation and then 10 minutes for each of the parties to have discussion and ask questions.

**Mr. Philip Howell:** Thank you, Madam Chair. My name is Philip Howell. I am the CEO of the Financial Services Commission of Ontario. With me today is Tom Goltfetto, executive director of FSCO's auto insurance division.

I'm very pleased to have the opportunity to present today. I am tabling a submission with current statistics and information on ongoing initiatives to control costs, reduce complexity, and prevent fraud and abuse in Ontario's auto insurance system.

I will also be referring in my remarks to a slide deck which I believe has been distributed to committee members.

We appeared before two standing committees in 2012. Today, I'd like to begin by summarizing progress from several key initiatives since our last appearance before SCFEA in July 2012. The Ontario Auto Insurance Anti-Fraud Task Force released its final report this past November. It contained 38 recommendations which, if implemented, will have a significant impact on reducing fraud in the auto insurance system. The government has already moved forward with seven regulatory amendments that implement five of the task force's recommendations.

A government and industry working group is developing a consumer engagement and education strategy on fraud.

In January 2013, FSCO was given the ability to impose administrative monetary penalties in the insurance sector. This enforcement tool will allow us to more efficiently address contraventions of the Insurance Act.

An action plan has been implemented to eliminate the dispute resolution mediation backlog. All files will be

assigned to a mediator by year-end, eliminating the backlog.

Recently, discussion on insurance rates has intensified. Before I address that discussion, a quick reminder of what auto insurance is: Auto insurance is a contract between an insured and an insurer that undertakes to compensate the insured for eligible costs arising from vehicle damage and personal injuries. The contract also undertakes to protect the insured from any legal claims for injuries or damages caused to others. The premiums paid by a driver represent the cost of transferring the risk of loss to the insurer. Claims costs are paid from premium revenues. The higher the claims cost, the higher the total premiums paid.

The challenge for government is designing and regulating the system to maintain a balance between the premiums paid by the province's nine million drivers and providing appropriate compensation for those injured, currently around 64,000 annually, and those who sustain damage to their vehicles.

The government's 2010 reforms were designed to improve the balance in the system. They were implemented to address rising costs, reduce opportunities for fraud and abuse, and provide drivers with more flexibility and choice when choosing coverages.

Early estimates of the accident benefit claims cost in the system show a reduction of approximately \$2 billion in 2011. These estimates reflect the impact of the 2010 reforms. There is clear evidence that the reforms have stabilized rates. In 2012, rates declined an average of 0.26% and decreased further in the first quarter of 2013.

Between 2006 and 2010, insurers' financial health deteriorated significantly. Their claims costs and operating costs were considerably higher than premiums. It was not until 2011 that we started to see some slight improvement on this front. The history and the improvement are shown on slide 1 in the slide deck you have in front of you.

Ontario has a generous accident benefits system. For example, no other province with private insurance delivery has statutory catastrophic accident benefits coverage. Generous benefit levels clearly drive higher claims costs, and as noted earlier, these costs are funded by drivers' premiums. Generous benefit levels also attract fraud and abuse, which contribute to rising claims costs and, therefore, rising premiums. As shown on slide 2, claims costs per vehicle in Ontario are higher than in any other province.

Slide 3, which shows actual average accident benefits claims costs, illustrates the difference more starkly. The difference is that these costs on slide 3 aren't averaged over all the vehicles in the province. The average injury claim made in Ontario in 2011 was about \$29,000, almost four times the average injury claim made in provinces with similar auto insurance markets. Why? Because maximum benefit levels for comparable accident benefit coverages in other provinces are less generous or unavailable.

A disparity is also seen in claims costs in the GTA compared to the rest of Ontario, as shown on slides 4 and 5. The anti-fraud task force identified the significant role that fraud and abuse play in Ontario's auto insurance system. The result is that Ontario's drivers, particularly in the GTA, where fraud is more prevalent, are paying higher premiums.

As noted earlier, claims costs did come down in 2011. In part, this is due to the minor injury guideline brought in with the reforms which capped treatment coverage for minor injuries at \$3,500. Since the vast majority of automobile injuries are minor, having an effective minor injury guideline is essential if consumer claims costs are going to be contained. Equally important is basing guidelines on the best medical evidence. FSCO has engaged a team of scientists to develop an evidence-based minor injury treatment protocol that will inform future MIG guidelines.

However, it must be remembered that accident benefits coverages are not the only driver of insurance costs in Ontario. I am concerned that the claims trend for third party liability bodily injury coverage is increasing. If this upward trend continues, it will offset some of the decrease in accident benefit costs.

I would now like to turn to how auto insurance in Ontario is priced and describe the rate filing and approval process.

First, I want to emphasize that in Ontario, auto insurance legislation requires FSCO to review and approve rates, not to set them. Insurers file rate proposals which FSCO is then required to review to ensure they are just and reasonable, not excessive and not going to impair a company's solvency. Those standards of review are embedded in the legislation.

It's important to recognize that insurance is priced prospectively. That is, rates must reflect an estimate of how much is needed to cover claims in the years ahead. In order to determine rates, insurers need to estimate how much they need to cover their future claims costs and earn a return on their capital.

To reach this estimate, insurance companies look at how past claims costs have developed. An insurer submits proposed rates based on its actuarial assumptions around four key factors: projected claims costs, operating expenses, investment income, and return on equity, or ROE.

It takes companies four to six weeks to put together a rate filing and submit it to FSCO. Company rate filings contain a substantial amount of detailed data, typically

several hundred pages, which FSCO reviews to ensure all actuarial assumptions are reasonable. This review can take from 30 to 90 days, depending on the complexity of the filing.

After FSCO approves a rate filing, legislation requires the insurer to give 45 days' notice to brokers and 30 days' notice to policyholders. In practice, rates typically become effective 60 days after approval. However, the new rate only takes effect for individual consumers on their policy renewal date. Policy renewal dates are spread evenly throughout the year. Therefore, in some cases, it may take up to a year for a consumer to see the impact after a new rate becomes effective.

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I noted ROE is one factor used in reviewing the reasonableness of rates proposed. Currently, a 12% ROE benchmark is used. In pricing insurance, insurers are no different than any other business. A return on capital invested is required for the business to operate and so must be included in the pricing discussion.

Using an ROE benchmark to determine price does not mean that ROE will be achieved. That depends on the accuracy of other estimates of future costs and the effect of competition in the marketplace. However, whether 12% is an appropriate benchmark is a legitimate question.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Mr. Howell, if I may, you have about 30 seconds left.

**Mr. Philip Howell:** Okay. I've got one page—big font. FSCO has retained experts to conduct a review of the ROE benchmark, and I expect to receive a report later this spring.

FSCO also approves a risk classification systems filed by insurers. These set out the factors an insurer can use when pricing an individual's auto insurance premium.

Our regulatory role, mandated by legislation, is to protect the public interest and promote public confidence in the sectors we regulate. I believe the design and operation of the auto insurance system needs to be focused on the interests of the drivers. This means balancing affordability and appropriate levels of coverage. All stakeholders in the system have a responsibility to ensure the auto insurance system remains viable by maintaining that focus.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, sir.

**Mr. Philip Howell:** Thank you, and I look forward to any questions.

**The Vice-Chair (Mrs. Donna H. Cansfield):** We'll start our questions with the Conservatives. Jeff?

**Mr. Jeff Yurek:** Thanks, Phil. Good seeing you out again—very much.

Just a few questions to go—how long do I have? Five minutes you said?

**The Clerk Pro Tem (Mr. Trevor Day):** Ten.

**Mr. Jeff Yurek:** Ten? Perfect.

You've already said basically that you're to review and approve the rates set, so you don't really have the authority to mandate a 15% rate cut across the board.

**Mr. Philip Howell:** No. That would be government's—

**Mr. Jeff Yurek:** That would be a government's chance. If they did give you the authority to implement a 15% rate cut, how would that be implemented?

**Mr. Philip Howell:** It would depend on what legislative changes they made to allow that. We don't have a system that allows that at the moment.

**Mr. Jeff Yurek:** Okay. And based on what you know about the system, would it be feasible to be able to cut rates 15% within a year—or possible?

**Mr. Philip Howell:** My view is that you cannot do that without impairing the—let me back up. It would depend on if the cuts were intended to be undertaken by every company. If every company had to cut rates by 15% next year without any corresponding changes in benefits coverages or anything that would give certainty around future claims cost growth, there would be many companies that would be effectively put out of business or would at least have to go to their investors and ask for a significant infusion of capital in order to remain in business.

**Mr. Jeff Yurek:** Or would you perhaps see product leave high-cost areas and not be available?

**Mr. Philip Howell:** That's not quite as easy to do because, in Ontario, we have a take-all-comers rule. Companies are required to—subject to their risk classification systems, which we approve and define conditions under which they'll insure someone—for example, if someone has a couple of at-fault accident convictions or traffic violations, a company doesn't need to insure them, but subject to those risk classification systems, insurers basically operate under a take-all-comers rule. So once they've got a customer on their books—you can't just arbitrarily walk away from one part of the province.

What will happen is that companies will take a look at new business, and they may start to renegotiate brokers' contracts. They may change their marketing practices to de-emphasize certain areas and limit the intake of new business. For sure that would happen. There would definitely be an availability issue that would emerge.

The second issue that I think would be of considerable concern, and it's important that legislators bear this in mind, is that virtually all of the insurance companies operating in Ontario are incorporated under the federal corporations act. That means that their solvency regulator is OSFI, the federal Office of the Superintendent of Financial Institutions. Their mandate and responsibility is to ensure that companies aren't exposing themselves to risk of failure. Incidentally, as I noted in my remarks, our legislation requires, when we are reviewing rate proposals, that we take that into account as well. We would never approve rates under the current legislation that would impair a company's solvency. But choosing a number and mandating it without taking a look at individual companies' financial positions would certainly raise alarm bells with OSFI. In the past, prior to the 2010 reforms, they were speaking publicly.

What can OSFI do? Well, they can direct a company not to write any new business. There's a range. They can require companies to inject more capital. Investors in many of these companies might choose not to. All of those would affect companies' decisions about operating in Ontario.

I do need to put one important qualification on the take-all-comers rule. The companies could choose to get out of the Ontario market. We do have rules in place to ensure that that exit is relatively smooth. Is it 180 days, Tom? Yes, it's 180 days after they've given notice of exit that that would come into play. The options for the policyholders of those companies are either move to other companies, not knowing whether the rates would be higher or lower, or be forced into the Facility Association, the insurer of last resort, where the highest rates in the province are.

Arbitrary amounts and arbitrary cuts, in my view, would not be healthy to the state of the overall industry and to maintaining a competitive industry.

**Mr. Jeff Yurek:** Basically, as you said, instead of taking an arbitrary number, your best possible solution to the high auto insurance rates in Ontario would be to step back, get all the parties in a room and come up with a plan of action, and then see what the competitive market comes out with at the end of the day with compatible rates.

**Mr. Philip Howell:** I think the best solution right now is to recognize the way that the system operates and to realize what's driving costs and address some of those, instead of taking a view that the only stakeholder in this system who has a responsibility is the insurer, and maybe the government. It's important to look at all the players, look at all the incentives in the system, the way that they're designed, and realize that perhaps the person who is being most affected and most negatively affected is the ordinary driver—most of whom, by the way, will never make a claim in their life. Yet it's their premiums that subsidize some of the excesses, some fraudulent, some not, that have been seen in terms of driving claims costs. I think looking at those, giving some certainty around some of those cost drivers, is the way to give companies comfort around future claims costs.

There's absolutely no question that there is some rate reduction room in the system. It varies quite a lot by company. There are some companies right now, if forced to come in under the existing rules—we would actually insist that they raise their rates. The reason they don't come in is because companies are also conscious of their competitive positions. They like to play a bit of a long game and realize, "Maybe there's other things we can do to control some of these claims costs without coming in." But under the existing legislation, if companies don't have enough rate adequacy to cover estimates of future claims costs, their rates have to go up.

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So any move that required all companies to cut rates I think would be a very dangerous move. As well as that, I think you would find situations where people would just

have less access to insurance and perhaps be forced into the FA, paying much higher rates than they currently are.

**Mr. Jeff Yurek:** That was a good point you made there. I have an Auditor General note: From 2006 to 2010, 293 rate filings were made, and FSCO approved a higher-than-requested rate in 10%. So that would be—the reason basically is to cover the costs that are increasing, to cover their future—

**Mr. Philip Howell:** Each one of those cases is going to be a little different, but it's the outcome of this process of a company filing a rate proposal which is underpinned by their own actuaries' estimates of where things are going, and then that's subjected to a review by our actuaries.

The reality is, there's a discussion back and forth—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Howell and Mr. Yurek. Mr. Singh?

**Mr. Jagmeet Singh:** Thank you very much. Good afternoon. I just want to touch on a couple of quick points. The coverage that we now have in Ontario post-2010 is not amongst the highest coverage in the country by far. At one point we were probably one of the best coverage packages, but no longer. Would you agree with that statement?

**Mr. Philip Howell:** No.

**Mr. Jagmeet Singh:** Okay. When the—

**Mr. Philip Howell:** Remember, in my remarks I—apples and oranges are important here. I explicitly said in my remarks, in jurisdictions where auto insurance is privately delivered; there are higher coverages in the public auto sector, the provinces that have a public auto insurance system.

**Mr. Jagmeet Singh:** Fair enough. And if you include the public and the private, we're amongst the lower, then, in that case?

**Mr. Philip Howell:** No. And it's apples and oranges. It's not a legitimate competition, and making those points for whatever motivation I think actually undermines the discussion that's needed around the integrity of the product in Ontario.

**Mr. Jagmeet Singh:** Fair enough. You indicated that there's room you see in overall rate reduction in the system, given the changes that were implemented in 2010. You agree with that?

**Mr. Philip Howell:** Yes.

**Mr. Jagmeet Singh:** An average rate reduction would mean that some companies would reduce their rates by more and some companies could reduce their rates less, or an average rate reduction—

**Mr. Philip Howell:** Correct.

**Mr. Jagmeet Singh:** —wouldn't mean that every company reduces their rates by 15%?

**Mr. Philip Howell:** Correct. Well, it depends on the nature of the mandate. I have no idea what the government's thinking would be. Every company reduced by 15%? Would it be an average of 15%? Would it be every company by a lower amount? Would it be an average of a lower amount?

**Mr. Jagmeet Singh:** Thank you. I'm going to ask you some questions about GISA and the GISA loss ratio data that's now available. I'm going to take you through certain questions, and if you agree with my general assertion, please indicate that it's correct. If you don't agree with me, please let me know that I have it wrong.

For those who are new to the committee, GISA is, roughly, a statistical agency with an affiliation to IBC, but the data that GISA—

**Mr. Philip Howell:** No. Could I just describe GISA correctly?

**Mr. Jagmeet Singh:** Yes.

**Mr. Philip Howell:** The provinces that deliver insurance privately all have a requirement in their insurance acts that insurers provide statistical data to them.

**Mr. Jagmeet Singh:** Right.

**Mr. Philip Howell:** It predates me, but I think sometime around 2005 or 2006 those provinces got together and recognized that there'd be a benefit to create a not-for-profit company—

**Mr. Jagmeet Singh:** I like GISA's numbers, so I'm—

**Mr. Philip Howell:** No, no, I'm just explaining what it is. Also, it's true that a separate arm of IBC, not the trade arm, do have a statistical provider. Last year—it was five years, six years, since GISA had started—we undertook a completely open, transparent, competitive review. The IBC statistical service provider won that contract for another five years. So they're independent, but they serve the six superintendents in the provinces.

**Mr. Jagmeet Singh:** That's fine.

The overall loss ratio dropped from 95% in 2009 to 65% in 2011. Would you agree with that statement?

**Mr. Philip Howell:** I'd have to check those numbers. I don't have them off the top of my head.

**Mr. Jagmeet Singh:** Okay. I'll ask you to confirm that if you could at some point, then.

**Mr. Philip Howell:** Yes, sure.

**Mr. Jagmeet Singh:** If that's correct, if I'm correct that they've dropped from 95% in 2009 to 65% in 2011—if that was true, would you agree that that means the industry is paying 65 cents in claims and adjustments costs for every dollar it collects in premiums? That's generally how the loss ratio would work, if that's correct.

**Mr. Philip Howell:** Well, there's several different loss ratios. The combined loss ratio is the one that's relevant, because that looks at premiums earned plus expenses plus investment income, and nets that out against claims costs.

**Mr. Jagmeet Singh:** Okay, that's fine. You agree that, and you've indicated this as well—

**Mr. Philip Howell:** And I'm not sure—in fact, I'm fairly certain the numbers that you're quoting don't include estimates for operating expenses.

**Mr. Jagmeet Singh:** Sure.

Statutory accident benefit payouts declined, because of the 2010 amendments, obviously, from \$3.92 billion in 2010 to \$1.96 billion in 2011, which is about a 50% drop in one year. Is that fair to say?

**Mr. Philip Howell:** There was a very substantial drop in the accident benefits coverages, yes.

**Mr. Jagmeet Singh:** Approximately 50%.

**Mr. Philip Howell:** Again, I'd want to confirm that number, but it was substantial.

**Mr. Jagmeet Singh:** Sure.

The industry tells me that the other significant number in calculating the overall costs is something called the expense ratio. This includes commissions, premium tax and other expenses. There seems to be consensus that this amount is about 25%. Do you agree with that?

**Mr. Philip Howell:** We would use that as a notional amount going into a rate review. You have to then look at each company. Some companies are more efficient than others. Some are 20%; some are 30%.

**Mr. Jagmeet Singh:** Sure, okay. That's fine. That's a range, then. So if we took the initial number that you're not sure about, if you took the 65% that I asserted before, and added it to the 25%, we'd get approximately 90%, obviously. If we're using this GISA data in 2011, the auto insurance industry had an overall cost of 90 cents for every dollar it took in in premiums. Does that sound about right to you?

**Mr. Philip Howell:** Tom, do you want to comment on that and the loss ratio?

**Mr. Tom Golfetto:** I'd have to check those numbers, Jagmeet, but by simple math, that would be correct.

**Mr. Jagmeet Singh:** Okay. That sounds good.

So in general, and I've done some rounding up here, but just broadly to get the sense here—I've done all the rounding errors, so if we look at premiums, \$10 billion, benefits, \$6.5 billion, other expenses, \$2.5 billion, before taxes, a profit of about \$1 billion in the industry: Does that sound about right?

**Mr. Philip Howell:** Again, I'd have to confirm, but could I just make an important point on this?

**Mr. Jagmeet Singh:** Yes.

**Mr. Philip Howell:** When you're pricing insurance, it isn't what has happened in the past that matters; it's what's going to happen in the future under the system that we have. Frankly, that's nothing to do with our kind of system. That's the way pricing insurance anywhere works. It's the essence of insurance.

For sure, the 2010 reforms had a dramatic drop in accident benefits, but if you take a look at third party liability claims, you'll see that there's an upward trend there that's somewhat disturbing and there's a lot of evidence that we have seen in the system that with the success of the 2010 reforms in clearing out some of the abuse, a lot of the practitioners are moving into reopening claims or notifying—sorry, taking already open claims and transferring them from an accident benefits claim into a bodily injury claim, because that is the new route to the money, which is through the courts, the tort system.

**Mr. Jagmeet Singh:** Thank you very much, sir. Looking at the Cheng report—are you familiar with the Cheng report that has been released?

**Mr. Philip Howell:** I've seen it, the IBC report you're talking about, yes.

**Mr. Jagmeet Singh:** You indicated there has been about—I'm assuming that there's been about \$2 billion of savings that have occurred, or \$2 billion of profits that have occurred. If the Cheng study indicates—

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**Mr. Philip Howell:** They're not profits; they're reduced claims payouts.

**Mr. Jagmeet Singh:** Sure. The Cheng study indicates that there's about a 28% tax rate reduction, if we use the numbers in the Cheng report. Are you familiar with that number?

**Mr. Philip Howell:** The IBC is appearing after me. You can talk to them about their report and the assumptions they use.

**Mr. Jagmeet Singh:** Sure. Then, long story short, Cheng reports profits—they're indicating it's somewhere around \$263 million. If we use the GISA numbers, we're getting a much higher number. Can you—

**Mr. Philip Howell:** I don't think the GISA numbers you're talking about are profits. They're claims payouts. It's a completely different concept.

**Mr. Jagmeet Singh:** Fair enough. I'll switch channels to another area. You briefly touched on OSFI.

**Mr. Philip Howell:** Yes.

**Mr. Jagmeet Singh:** GISA is the source of data that FSCO uses. I'll read a statement why I think—and I agree with your assertion here that GISA's data is a better tool in setting rates as opposed to OSFI's data. I'll make that assertion by reading a statement from GISA's website:

"The statistical data collected provides information that is used in determining and reviewing rates as well as providing more insight into the costs of insurance. The data captured under the statistical plans is at a finer level of detail (e.g. average costs of claims and the number of claims) than that available through financial reports"—OSFI data—"and is presented on an accident-year basis to allow for an appropriate matching of premiums and claims for determining and reviewing rates."

That's from the GISA website. In general, would you agree with that statement, that description of the data they're able to collect?

**Mr. Philip Howell:** Yes.

**Mr. Jagmeet Singh:** And this is a statement I'm sure you'll agree with: FSCO relies on GISA in setting the rates.

**Mr. Philip Howell:** That's our source of data that we get from insurers. What we rely on in setting rates, actually, is the detailed data that's provided by each company when they submit a filing.

**Mr. Jagmeet Singh:** Right.

**Mr. Philip Howell:** What the GISA data does is allow us to get aggregate impressions of what's happening to various aspects in the province.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, gentlemen. We'll continue the questioning with Mr. Colle.

**Mr. Mike Colle:** Thank you, Madam Chair. Thank you, Mr. Howell. Here we go again.

I guess the thing is that what we've just heard sort of reminds me of the fact that this is too complicated for the guy or girl trying to drive their car. We're talking about GISA, OSFI, IBC. How can we better explain the insurance product to people? Because right now we've got a situation where the public out there thinks we're going to magically reduce auto insurance rates by 15% by you, Phil Howell, doing it. How are we ever going to get people to understand how auto insurance works so the ordinary person trying to drive through traffic understands the product they have here in Ontario?

**Mr. Philip Howell:** That's a very good question. You're right; it is complex. I will say that if there's a perception in the public that I have the ability to lower insurance rates by 15%

**Mr. Mike Colle:** They say it's you. You're the guy. You've got to lower them.

**Mr. Philip Howell:** —they vastly misunderstand the powers we have as a regulator.

More seriously, though, I think it underscores the importance of education—one of the reasons we've got this education and fraud awareness strategy work under way—and that's something that has to be ongoing. But, as I said at the conclusion of my remarks, I think all stakeholders, the government and the regulator—us—all have a responsibility to ensure that we place the driver's interest first.

There are two aspects to that interest. One is the fact that insurance is mandatory, so you want to keep it affordable. The second is that you want to ensure that when people are injured, they can get better from those injuries, or when their cars are damaged, they can repair them. It's kind of that simple, in terms of the balance that needs to be struck.

What has happened, I think, is that over time—and the history of the evolution of no-fault in Ontario is probably instructive in this sense—

**Mr. Mike Colle:** We don't want to go into that.

**Mr. Philip Howell:** I'm not going to go into it, but what it's done is create an awful lot of noise around what is a very simple contractual product between an insurer and a company, and you've got to keep that focused.

**Mr. Mike Colle:** That's right. I love keeping it simple. There's a contract that you sign.

The other thing is that what I see happening here is a dramatic shift where you're a regulator regulating private enterprise, basically; now you are going to become more than a regulator. You're going to arbitrarily save 15% in a reduction. Is that going to give you the power, I wonder, to lower the 15% return that the tow truck industry has in this insurance? Are you going to be able to lower the auto body repair industry's profits by 15%? What about the paralegals? Will they have a cut of 15%? Trial lawyers—will they take a 15% cut? Or physiotherapists: Will they take a 15% cut? Medical assessment doctors and a variety of medical professionals: Will they take a 15% cut? Will you have that power? And then the attendant care industry, the insurance industry, the

brokers—will you need the power to ask all of those industry partners to take a 15% reduction so that can be passed on to the Ontario driver?

**Mr. Philip Howell:** Certainly, I don't have those powers. My job is to implement the regulatory legislation in place, and that's what I'll do. Currently I don't have those powers, but you do point to the fact that there are a lot of interests at play here. It isn't just the insurers. There are a lot of people making a lot of money off the insurance product in Ontario, and I think those interests, frankly, are the source of a lot of the noise and the confusion that gets raised around the product, and distracts attention from legislators to focus on what is best for the driver and what's best in the public interest here.

**Mr. Mike Colle:** My colleague has a question.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Mr. Balkissoon.

**Mr. Bas Balkissoon:** Thank you, Madam Chair. I just have two questions, I hope. In this simplistic request of a 15% reduction—you mentioned before that if there's a rate reduction after you have the approval passed on to the insurance company, it takes 60 days. The simplistic resolution that came to the Legislature was to reduce it over the next 12 months. Should this happen politically, would you be able to track this so that you'd know exactly where it's at every month as to the reductions that are happening in the industry, or is that just too complex?

**Mr. Philip Howell:** No. If rates come in and rates get approved, there are effective dates. We, in fact, track them right now on a quarterly basis. So it's possible to track. That's not the challenge.

**Mr. Bas Balkissoon:** Okay. A person like myself who has home insurance and another insurance package together with my automobiles, and my insurer gives me a discount: How do you differentiate that I'm benefiting on my car because of the other ones?

**Mr. Philip Howell:** The other products are not regulated in any way. The rate approval is on the auto insurance. They are, as you know, separate policies, so you get from your company how much you're paying on auto. If you have the same company, you'll get a separate bill for your property that tells you how much you're paying. But the focus of rate reduction has all been just on the auto component of that.

**Mr. Bas Balkissoon:** Okay. You started out by saying that there was \$2 billion less in claims between 2010 and 2011.

**Mr. Philip Howell:** In claims payouts, yes.

**Mr. Bas Balkissoon:** Would you say that—

**Mr. Philip Howell:** For accident benefit coverages, which are less than a third of the total coverages that are paid out on auto insurance.

**Mr. Bas Balkissoon:** I understand. Now that you say that the industry is shifting from the medical claims to actually taking them to court and now making it a court process which would take many years to settle—

**Mr. Philip Howell:** That is not quite what I say. It's not the industry. I'm saying that on the legal side, that profession, there are signs. Again, it's just indications from peculiar things that are happening.

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I don't know if the committee's aware that in Ontario, the judicial system, as is common I think in all judicial systems, has an interest charge that's paid for claims that are in the court system. For all claims, that gets reviewed quarterly and it trends pretty close to market rates. For some reason in Ontario, the pre-claim settlement interest rate on personal injury accidents is 5%, which is way out of whack, and that's recently been reinforced by the committee of judges and lawyers and others who have the authority to determine that. So there's obviously a clear incentive, now that the easy money has gone on exploiting the accident benefits side through the changes that came in the 2010 reforms and other anti-fraud measures, to move claims, to see if claims can be taken through the court system—because if it does, as you know, correctly, it typically takes years for these to settle, and at conclusion the money—and the trial lawyers, of course, tend to operate on a contingency-fee basis, so not only do they have an incentive to get a large settlement from the companies, but they're also going to be earning interest from the time that claim is filed at 5%. Who wouldn't want to park their money these days in that—

**Mr. Bas Balkissoon:** So then, would you agree that the \$2 billion really that you've seen in just one year—we should be very cautious because of this change to the court system, and maybe the \$2 billion is not reality yet? We need to experience that a little longer?

**Mr. Philip Howell:** That's a very good point. The \$2 billion and the numbers that are reported through GISA are all estimates because most of these claims are not settled. GISA data is actually on an accident-year basis, unlike OSFI data, which is on a calendar fiscal year basis—one reason why you can't just jump back and forth using the two data sources without realizing that and adjusting appropriately. But what happens with claims costs is the accident year in which it happens, there'll be an estimate—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Howell. I am remiss—could you please introduce yourself as well for Hansard?

**Mr. Tom Goltfetto:** Certainly. My name is Tom Goltfetto and I'm the executive director of the auto insurance division of FSCO.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, gentlemen, for your presentation. It was most insightful.

**Mr. Philip Howell:** Thank you. You have a difficult challenge—

*Interjections.*

**The Vice-Chair (Mrs. Donna H. Cansfield):** I'd like to think we have a difficult challenge.

**Mr. Philip Howell:** Actually, we do.

#### INSURANCE BUREAU OF CANADA

**The Vice-Chair (Mrs. Donna H. Cansfield):** If I may ask the Insurance Bureau of Canada to please come forward.

Thank you very much for attending this meeting. If I could ask you to introduce yourselves. You have 10 minutes for a presentation, and then we'll do a rotation of 10 minutes of questioning.

**Mr. Ralph Palumbo:** Thank you, Madam Chair. I'm Ralph Palumbo, the Ontario vice-president of the Insurance Bureau of Canada. With me here today are Barb Taylor from IBC, the director of policy for Ontario; Joe Cheng of J. S. Cheng and Partners Inc., actuaries; Neil Parkinson, to my right, who's a partner—audit—and the leader of the insurance sector of KPMG; as well as Pete Karageorgos, IBC manager, consumer and industry relations.

Chair, we have some submissions that we've left with the Clerk, so I'll start in right away.

As I was saying last year in this very spot—the last time we appeared here—I'm here to deliver a fairly simple message, and that is that Ontario auto insurance rates are too high. I think we all agree with that. Like others in this province, the industry wants them to come down. The difference of opinion, of course, is how we do that. The difficulty today, frankly—and what I see—is that political parties played politics with auto insurance, and that's really why we're in the mess we're in. Too often, parties resort to simplistic solutions offered in the guise of public policy. A case in point: the recent motion brought by the NDP in the Legislature. That solution—and I use that word loosely—does absolutely nothing to get to the root cause of the problem which, as we all know, is the product itself. Worse than that, they know that, but they won't say it.

To its credit, the government has expressed its commitment to work with the industry, and indeed with all stakeholders, to come to grips with the issues that require attention. A case in point: the government's unwavering commitment to combat fraud and abuse in the system and its willingness to review the FSCO mediation-arbitration system, and more. Frankly, we need to commend the PC Party as well for its support of the anti-fraud task force recommendations and their call for reform of the mediation-arbitration system and the FSCO rate filing system.

One last point: We remain committed to working with all stakeholders and all elected and non-elected officials to do what's necessary to drive down unnecessary claims costs while ensuring that appropriate benefits for injured motorists ensue, and ultimately to make sure we have more affordable auto insurance.

I said I had one message; I actually have another. It is this: Reforming auto insurance for the benefit of Ontarians is a complex undertaking. Politics and political tricks just won't do it this time—just won't. Simple fixes won't suffice. Please, please, it's time to get it right once and for all. Let's not let the public down again. Thank you, Madam Chair.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much for your presentation. It was succinct. So we'll start the rotation. We have—

**Mr. Ralph Palumbo:** Sorry, I should say—

**The Vice-Chair (Mrs. Donna H. Cansfield):** That's okay.

**Mr. Ralph Palumbo:** Before you do that, if you wouldn't mind, we have actuaries who have prepared two reports that I know have been distributed, and they want to make some comments. Before they do that, I'll turn it over to Barb Taylor for a moment.

**Ms. Barb Taylor:** I just wanted to say that ICB has commissioned two independent analyses of the Ontario private passenger results for the past five years. Both reports are based on publicly available financial data reported to the federal and provincial financial service regulator based on annual returns to OSFI forms P&C-1 and P&C-2.

The reports demonstrate that the insurance industry was in a severe loss situation due to inadequate rates prior to the reform. There was a small gain in 2011 and a modest gain in 2012. Both reports showed underwriting losses for all five years. These results show that the 15% premium reduction being called for would basically exceed any profits the industry had made and put the industry in a loss situation.

I'm going to hand it over to Neil from KPMG to give a quick analysis of his report.

**Mr. Neil Parkinson:** Thanks very much, Ms. Taylor. As mentioned, my name is Neil Parkinson. I'm a chartered accountant, a fellow of the Institute of Chartered Accountants of Ontario and leader of KPMG's insurance practice. Also with me I have a colleague, Houston Cheng, a fellow of the Canadian Institute of Actuaries. Together we were the principal authors of the report that was referred to as being available, which was an analysis of Ontario private passenger automobile results for 2008 to 2012, as commissioned by the Insurance Bureau of Canada.

As mentioned, our analysis covers the years 2008 through 2012 and extracts results on the Ontario automobile insurance product from publicly available filings. As mentioned, it came from returns that were filed with OSFI, the Office of the Superintendent of Financial Institutions Canada, as well as all the other provincial regulators in the country. It's important to note, too, that those annual financial statements and returns include the audited financial statements for all the individual companies, detailed analysis of the premiums and claims for those years, together with an independent auditor's report and a report of their appointed actuary on the insurance liabilities.

Those financial statistics allow us to see total Ontario auto insurance results separately for all years in the period. Indeed, as has been mentioned, industry results do show sharp reductions in claims costs in 2011 and 2012 that came, obviously, after substantial losses in 2008 to 2010, where there were significant claims costs and underwriting losses, peaking at an underwriting loss of \$3.1 billion before investment income in 2010.

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With the introduction of changes in the automobile insurance product for policies issued on or after September 1, 2010, savings began to appear in the system and, in fact, costs declined sharply. They were lower fully by

\$1.6 billion just on a straightforward calendar-year-to-calendar-year basis between full year 2010 to 2012. So it does appear that certainly, allowing for the fact that it's not easy to pick out how much of that result actually started to show as savings in the last four months of 2010, there were very substantial changes, and it doesn't seem inconsistent at all with some of the comments that have been made about \$2 billion in savings.

As a result, with those claims costs reductions, the underwriting losses for this product were substantially reduced, but not eliminated, to \$655 million in 2012. When we say "underwriting loss" here, we're talking about premiums less claims and expenses, and prior to any investment income. When you allocate investment income to it, the industry has achieved a small and positive return for 2012: about 3.3%. Effectively, it was break even in 2011.

So despite those improvements and results, which are no doubt welcome to people in the industry, those returns on equity remain well below the pricing limits imposed by FSCO and, indeed, what you would expect for equity returns in most other industries.

One last comment from me: The pre-tax profit reported in the 2012 private passenger auto numbers amounted to about 3.6% of premiums. Putting that in context, that's about how much profit there is left. If you were to reduce premiums by about 3.6%, it would basically have eliminated the profit in 2012. So, unless accompanied by other changes in the costs of the system, claims or otherwise, that's where you're at.

I note that another report with similar conclusions, broadly speaking, was prepared by Joseph Cheng of J.S. Cheng and Partners, and I'd now like to pass things over to Mr. Cheng.

**Mr. Joseph Cheng:** Thank you. I will try to make this simple. In the insurance business, you collect 100 units of premium and you invest the funds together with the capital deployed. You earn 10 units of investment income, for a total revenue of 110, and you pay out claims and expenses of 102, leaving you with eight units of pre-tax profit. You pay two units of tax; all you've got is six. On average, this is what happens, but in any given year you could have a loss or you could have a gain much larger than your target.

In 2010, the industry happened to have one of the worst years, so it incurred roughly minus 10 instead of plus 6. In comes the auto reform and the claim costs drop by roughly \$2 billion. This turned the loss from minus 10 to plus 2. That's the insurance business. I hope this is simple enough.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Cheng. I think that was the first time I actually understood an actuary.

**Mr. Joseph Cheng:** Thank you.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much for your presentation. Ladies and gentlemen, we'll pass it to Mr. Singh.

**Mr. Jagmeet Singh:** Thank you very much. I have a question beginning with a statement from the GISA

website. I'll be asking you to compare GISA data with OSFI data, just so you know where I'm headed with this. The GISA website states—and I'm going to read this verbatim from the website:

"The statistical data collected provides information that is used in determining and reviewing rates as well as providing more insight into the costs of insurance. The data captured under the statistical plans is at a finer level of detail (e.g. average costs of claims and the number of claims) than that available through financial reports"—OSFI data—"and is presented on an accident-year basis to allow for an appropriate matching of premiums and claims for determining and reviewing rates." That's a statement from the GISA website.

As far as you're aware, FSCO relies on GISA in setting its rates, or it relies on GISA-type data. Do you agree with that statement?

**Mr. Joseph Cheng:** I think that GISA data is good in all of the ways that you described. It certainly is suitable to establish loss trends in the industry. However, to measure profitability, it is lacking a lot of features. First of all, it is on a undiscounted basis, as if a dollar paid today is exactly the same as one dollar paid in 10 years. As I described earlier—

**Mr. Jagmeet Singh:** Sorry, just to pause you for one moment: I'll be interested in hearing your remarks on these other issues. I have limited time and a limited number of questions, so if you could just answer my question that FSCO, as far as you are aware, relies on GISA for setting its rates—or GISA-like data for setting its rates. Are you aware of that? Or if you're not, that's okay; we can move on to the other area.

**Mr. Joseph Cheng:** Well, I'm not fully aware of what FSCO is relying on.

**Mr. Jagmeet Singh:** That's fine. This might be something you might be able to answer more accurately, because this will be directly to your actuarial experience and this is something that you did use in both of your reports—you relied on OSFI. We've consulted with an actuary, and the actuary indicated that this is their assessment of OSFI: "The financial year data used by OSFI will include a higher bulk reserve than the more accurate accident-year data used by GISA. This error estimate contained in the bulk reserve used by the IBC studies does not have any relation to the actual claim costs and should not be considered as a part of the claims when a more accurate estimate (used in the GISA data) is available."

That's something I think you can provide your input on, and your opinion on that statement.

**Mr. Joseph Cheng:** I'm not sure where your question is leading.

**Mr. Jagmeet Singh:** Just to the truth. Nothing more than the truth, my friend.

**Mr. Joseph Cheng:** GISA is just a starting point. It's not the final answer. In my example, when you have premium less claims, the GISA number is not claims per se. It's just the first step to arrive at the claims. You cannot use the first step and assume that's the same as the last step for claims purposes.

**Mr. Neil Parkinson:** Sorry, if I might add another comment from my perspective on that, and that is that, first of all, Mr. Howell did refer in his remarks to the GISA data, but I don't think he said he exclusively relied on it. I think he also made reference to the use of a wide range of data, including consideration of the solvency of the companies, so I would say that GISA was certainly used.

As to its superiority or inferiority with respect to OSFI data, it's important to realize a few important things about it. First of all, the GISA data comes in as a bucket—the same claims data that's used by the companies to establish their reserves go in the OSFI data. Just the analysis is different, and it doesn't necessarily include all the costs that are included in the OSFI statements.

Secondarily, the data that's provided by each company is analyzed very close to the coal face for the individual company, expertized by the appointed actuary of that company and its auditor. So that's something that happens on an aggregate basis only.

Thirdly, the GISA data itself is not immutable and does change over time; I think you are looking at 2011 data made available in July or thereabouts of 2012. Since that time, as you might expect, that data will mature and is, in fact, as I understand it, beginning to show further adverse development from the numbers initially reported.

**Mr. Jagmeet Singh:** Thank you very much. Actually, speaking of costs, I think it's important to note—

*Interjection.*

**Mr. Jagmeet Singh:** I'll come to a point where I'm going to ask you to compare the differences, but just talking about costs and the difference between the GISA data and OSFI data, would you agree that the OSFI data that you used in your study includes a number of accounting practices that vary from business to business that essentially reduce the profits for tax purposes—strategically and fully legitimately, but the OSFI data includes different accounting techniques and strategies that are used for tax planning, so that the profits that would be returned under OSFI would be different because of accounting procedures that each company is entitled to use. Do you agree with that statement?

**Mr. Neil Parkinson:** I would agree that there are differences; I would disagree with the characterization of the motivations, like that it's for tax planning purposes or anything like that. I think that it follows the generally accepted accounting principles and standards of practice of the Canadian Institute of Actuaries.

**Mr. Jagmeet Singh:** I'm just going to compare; when I look at GISA numbers compared to the OSFI numbers, I get \$1.44 billion in profits using GISA numbers and \$263 million looking at Cheng numbers. Do you agree that there's almost a \$1.2-billion difference between the two?

**Mr. Joseph Cheng:** I'm not aware that using the GISA number can derive a profit figure, but also I disagree that the GISA number always has a lower claims value than the OSFI data. I don't think that that can be a blanket statement. It all depends on the interest rate at the

time and, as I said repeatedly, investment income is the major source of profit for insurance companies. Ignoring investment income in the GISA figure—just throw it as a non-starter; it cannot be used to measure profitability.

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**Mr. Jagmeet Singh:** Fair comment. My last comment is just that I looked at the reports, both by KPMG and JSCP. If you look at the return on equity year by year, in 2011 there was a significant difference between both your reports. One report says 2.6%; the other report says 0.2%. One report says 4.9% and the other says 3.3%, comparing 2011 to 2012. In fact, at the end of the day, when you look at the increase or decreasing claims costs from 2012 and 2011, we get plus \$300 million for JSCP and minus \$198 million within your own—you’re using the exact, same data, and you’re coming up with very, very significantly different numbers. I was just confused by that result; your numbers are absolutely different between two companies, looking at the same data.

**Mr. Neil Parkinson:** I’d be happy to answer. From my perspective, if you look at the differences in methodology and assumptions, I think one of the largest—if not the largest—differences between the two is that there is a difference in the basis of allocating investment income. I think Mr. Cheng’s is principally driven off premiums; ours is driven off capital and claims reserves. So there is a difference in investment income; there are some other differences in allocation and estimates.

I think it’s probably most relevant to say that quite apart from those differences in allocations and estimates, you get broadly the same kind of conclusion in terms of the pattern.

**Mr. Jagmeet Singh:** I’ll just challenge you on that one point—

*Interjection.*

**Mr. Jagmeet Singh:** I’ll just challenge you on this one point, and both of you can answer this. You essentially get an absolutely different picture. One says there’s a loss and one says there’s a significant claims decrease, and one says there’s a significant claims increase. One is a \$300-million increase, and one is a \$198-million decrease. I mean, that’s totally different. You’re absolutely different. I’m just wondering why. How can we rely on these reports when they’re absolutely different? One is saying a loss, and one is saying an increase.

**Mr. Joseph Cheng:** The investment income side, we noted, included unrealized gain or loss from the investment; that is, if an insurance company buys a security for 100 and it becomes 101 next year, we count that as profit, whereas I believe, in the KPMG report, it does not. So, we actually look at all sources of income—just like your RSP account; if you gain in value you didn’t sell it—but we count that as a profit in our calculation.

**Mr. Jagmeet Singh:** Just one final point of clarification. When I indicated the \$1.44 billion that I assessed using the GISA data, we included investment income as well as premium income and looked at costs from the claims side and assessed that that was a \$1.44-billion profit, using both investment income and premium income.

I’d invite you to maybe go back and review, using GISA, if you can find—there’s a significant difference in terms of the profits we’ve arrived at and the profits you’re posting in your reports.

**Mr. Joseph Cheng:** I would be happy if you have a report. Then I can comment. I don’t know the numbers you just suggested.

**Mr. Jagmeet Singh:** Sure. At the end of the day, though, you would agree with me that this is very enlightening in terms of—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. We’ll have to leave that for the next. I turn to Mr. Colle or Mr. Balkissoon.

**Mr. Mike Colle:** Okay. I ask the Chairman to keep a list of all the acronyms used, so that at the end of the day we get an update on what they all mean.

The question I have: Is there any other province besides the provinces that have public auto insurance that has a regulator that sets—not reviews or approves—the rates? To your knowledge, because you’re right across Canada, is there another province that sets rates? Could you find that out, anyway? Maybe research can find that out.

**Ms. Barb Taylor:** We can look into that, but as far as I’m aware, none of the privately run provinces have any rate setting.

**Mr. Mike Colle:** If we can get the final determination, we’d appreciate that.

Fraud across Canada on the auto insurance side: Is there any measurement of the level of fraud in Canadian provinces? Are we in Ontario out of whack with fraud levels in the other provinces?

**Mr. Ralph Palumbo:** Absolutely. This is the mecca of fraud in Canada, and more particularly in the GTA. This is where the money is. This is where the fraudsters and those who abuse the process and the system come to operate, absolutely.

**Ms. Barb Taylor:** And KPMG did a recent study for the anti-fraud task force that measured up to about \$1.6 billion a year in fraud.

**Mr. Mike Colle:** Okay. What about the area of third party liability claims? Are we about the national average in this level of liability activity, or are there more claims on that side in Ontario than in other jurisdictions?

**Ms. Barb Taylor:** If you’re talking third party liability, you’re talking about property damage claims, the number of accidents, as well as—

**Mr. Mike Colle:** Accidents, property, the whole thing.

**Ms. Barb Taylor:** Okay. Definitely the average numbers are higher in Ontario than they are in other provinces for the bodily injury claims.

**Mr. Mike Colle:** Okay. Now, you’re the insurance companies. You deal with all these appraisers, assessors, physiotherapists, Hells Angels—you deal with them all. The question is, why can’t you go to all these people who deal with auto insurance and tell them, “Listen, we’ve got the provincial government on our back. They want a 15% reduction”? Why wouldn’t you go to the tow truck

industry, the people who do auto body—because you deal with auto body repair; you have to prove the auto body repair claim—the paralegals, the lawyers, the medical assessors—you know, there used to be the old Mad Magazine thing about Spy versus Spy. You get one assessor, then you get another assessor, then you get another assessor. You get about 20 assessments, and the guy's got a pinched nerve in his shoulder. Can't you tell those 20 assessors, "Listen, we're going to cut you down 15%"? Can't you tell all those industry partners, "Everybody's got to take a 15% cut because we've been told by the government we've got to cut 15%"? Can't you do that?

**Mr. Ralph Palumbo:** We could. Ask the folks behind us when they come to testify whether they'd do it; I doubt it.

If the NDP motion is actually made into legislation, you're going to do that to the industry, but do you think these folks are going to agree to do that unilaterally? Of course not. They're not going to. They're not going to listen to us; they never do. The only ones who do work well with us, frankly, are the brokers.

**Mr. Mike Colle:** But can't you tell the auto body repair industry, "Listen, all our claims last year were this much. They're excessive, and they're all going down 15% next year or you don't do business with us"?

**Mr. Ralph Palumbo:** Well, those are arrangements that can be made between a company and the people who they contract with, absolutely. But the difficulty is, those people expect to be paid quite fairly; they do. If you just arbitrarily cut 15%, you're going to find that there are people who just aren't going to help you out and assess claimants.

**Mr. Mike Colle:** One final question I have, and then I'll leave it to my colleague. How many people are in Facility right now in Ontario?

**Ms. Barb Taylor:** I think it's about 5%.

**Mr. Mike Colle:** About 5%. And what has that been like? I know that at one time there was just a huge number of people in Facility. Kingsway was making a fortune there. It was covering everybody in Facility. I don't know if Kingsway is still around—

*Interjection.*

**Mr. Mike Colle:** He's not around anymore? Okay. Can we just get the data on that?

**Ms. Barb Taylor:** We can provide you with the data from the Facility Association to show you the trends.

**Mr. Mike Colle:** And then the trends, if there's a similar body across the country, a Facility where they're at—Facility is auto insurance purgatory, isn't it? Or hell or whatever you want to call it.

**Ms. Barb Taylor:** It's the insurer of last resort.

**Mr. Mike Colle:** Last resort. Okay.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Mr. Balkissoon.

**Mr. Bas Balkissoon:** I have a couple of simple questions.

Experience has it that last year, across the board, no particular insurance company, rates on average came

down slightly as a result of the reforms that the government brought in in 2012. As a result of your fraud task force, there will be some more work done. What is your opinion on the direction that rates will continue to go in, and if you have a general idea of how much, if we did nothing other than the task force report?

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**Mr. Ralph Palumbo:** We couldn't tell you what the number would be, but clearly, as I mentioned in my opening statement, the problem remains the product. Of course rates are too high, but the only way you're going to get those rates down is if you take out unnecessary costs in the system, the kinds of things Mr. Colle was talking about, and in order to do that, you have to take a look at the product itself.

In 2010, when the government brought in its reforms, it was essentially to stabilize prices, which frankly it has done. But if you really want to get at rate reductions, then I think the government has to look at some of the things that it has been asked to do. They set up an expert panel on catastrophic injury. There has been a recommendation; I think the government needs to act on it. On fraud, they have an anti-fraud task force. The recommendations—the government needs to act on that.

We've heard about the backlog in mediation arbitration. It's a mess, and there are too many disputes there. The transaction costs are huge, and the government has to do something about that in order to bring costs down. There are all kinds of other issues in terms of some of the provisions of the SABs that have to be looked at, and the rate filing system has to be reformed to give insurers confidence that when they file for rates, they're going to get a fair return. All of that has to be done.

What the numbers are specifically, we can't tell you just yet. There is some work that we've asked some of our actuaries to do, but we don't have those numbers yet. Even so, it's very difficult—you know, how do you put a number on—

**Mr. Bas Balkissoon:** Can you project: slightly down, slightly up?

**Mr. Ralph Palumbo:** I can tell you quite frankly: If the costs come down, rates will come down.

**Mr. Bas Balkissoon:** Okay. Something that is asked of all of us as elected officials continuously—and I would just look for your advice on what you would recommend if you had one. Quite often, residents who live in my riding—and my riding is one of the areas that is labelled high-risk. You have somebody driving five, six years accident-free, claims-free, and I'm a good example, but my rates still keep going up a couple of percentage points every year. How do you explain that to someone who has a clean driving record? What do you recommend they do?

**Ms. Barb Taylor:** One thing that they can do is shop around, because rates do vary between companies, and often a significant amount. Another thing is, you have to take into account the fact that there is inflation. Insurers have to pay more for repair costs and medical costs. Every year, costs go up. So even though we are in a

system where we hope that costs continue to come down, there are other pressures on costs as well, and those will always be there.

**Mr. Bas Balkissoon:** But if you take inflation, it hasn't been very high in the last couple of years. I'll use myself as an example. My vehicle is getting older and older every year, so it doesn't relate to my rate going up. The only explanation most insurers are giving to their clients is, "You happen to live in a particular area." It's unfortunate.

**Ms. Barb Taylor:** When you do look at the cost by area, some particular areas are actually paying less than they would be paying if they were paying the full complement of costs based on the claims costs that are being paid out in those areas. I think we have some actual statistics that we could provide you for your area to see what the actual claims costs in your area are. You might actually find out that you're paying below what you would be paying if the company were to be paying the full amount.

**Mr. Bas Balkissoon:** Okay.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much for your presentation. It was excellent.

**Mr. Jeff Yurek:** I'd like to ask—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Oh, yes.

*Interjections.*

**The Vice-Chair (Mrs. Donna H. Cansfield):** I was thinking mental telepathy with Todd here. I'm sorry, Mr. Yurek.

**Mr. Jeff Yurek:** That's fine. Thank you, Chair. Thanks, guys, for coming out. I'm just going to touch on profitability and then we'll touch on something that we should actually be dealing with. What is your better measure of all the data? Excluding your reports, what data should you be using to accurately measure profitability, and explain why?

**Mr. Joseph Cheng:** I would think that the financial data is still the single best source, because that proves whether you make a profit or not. GISA should be used to complement the financial data, but it's not the driving force to determine profitability. In fact, FSCO would look at the financial statement of the firm, in addition to the rate filing too, before they would give the final approval.

**Mr. Jeff Yurek:** Okay.

**Mr. Neil Parkinson:** I think that I would agree with Mr. Cheng's comment on that as well.

**Mr. Jeff Yurek:** Okay. Thank you.

Now, given what has gone on in the last month here—there was a motion passed in the House, supported by two parties, not the PCs, to cut rates 15%. And, of course, to pass the budget, the NDP want it cut within a year. Can you explain to me what's going to happen in your industry if FSCO somehow gets the powers within a year's time to allow you to cut the rates 15%?

**Mr. Joseph Cheng:** If there's a mandated rate reduction, I would think the companies have no choice but to comply. But the first step they would look at is

trying to minimize the damage. There would be a selection process that would select the better, or try to retain, books of the business that you have, and try not to accept new business if you could, notwithstanding the newcomer rules. But there has to be a way to limit the intake of new business, and I think what will happen is the Facility Association population will grow as a result.

Also, there is another mechanism called the risk-sharing pool. That also would grow. But the losses in that sharing pool would be shared by everybody in the industry. So the industry will still suffer. There might be a few companies that can't afford it, and they will have to exit the market.

**Mr. Jeff Yurek:** Would it be fair to say that young drivers and new drivers to our country would be the ones hardest hit at attaining insurance after this cut?

**Mr. Joseph Cheng:** I would think that it is a likely scenario.

**Mr. Jeff Yurek:** Just going on to rate filing, can you talk about some of the costs, direct and indirect, that are involved, that are costed to the insurance industry in processing a rate file change?

**Mr. Joseph Cheng:** The process of a rate filing change involves gathering your own data first and then maybe external data, like GISA. If you use in-house staff, it's probably part of the payroll structure. So it would involve time and not out-of-pocket expenses.

But if there were no rate filing requirements, obviously, you would need less people in the insurance company, and you would pass along the savings in terms of lower rates.

**Mr. Jeff Yurek:** Do you have an industry average at all of what it would cost administratively, or a ballpark figure?

**Mr. Joseph Cheng:** I have no figures to give you.

**Ms. Barb Taylor:** I have some numbers that I've got. They're a bit old, but I've heard from companies that it could cost anywhere between \$60,000 and \$80,000 to do a rate filing. It depends whether it's done in-house or with outside actuaries, but that's the cost of one full rate filing.

**Mr. Jeff Yurek:** So if it's done outside, it would be a little more expensive, I would imagine. Okay.

**Mr. Neil Parkinson:** If I might add to that, of course, one of the factors in the market is that this is not an especially concentrated industry, so there are a lot of smaller companies in the market, including some Ontario-based ones, that basically have to go outside and incur external advisors' costs to do these rate filings. It probably puts more pressure on the cost structure of some of the smaller regional companies and any of the farm mutuals in your area, if you happen to be in a rural area, for instance. But at any of the smaller companies—I'd say that probably the top 10 mostly can do it on their own, but beyond that, there's a real cash cost, not just a strain on internal resources.

**Mr. Jeff Yurek:** Certainly, yes. I'm a rural riding. I have three mutual companies alone in my riding.

Just another thing: I've always been for technology and improving—and maybe this would help the member

opposite with his dilemma with higher rates. Can you talk about usage-based insurance and give us how that would benefit, if we could get that out on the market as soon as we could?

**Mr. Neil Parkinson:** I would just comment that that's a relatively new area up here. It has been explored in more detail in other jurisdictions. I think that if you look at the cost in the system of paying claims, what usage-based does is help you charge premiums more in one place and less in another. So I don't think it would do much to help the total premium bill, but it may just be a matter of charging the right people more premiums, which, if you're a right person, doesn't sound like a very good deal, obviously.

The other thing is, of course, that's a relatively new, relatively high-technology situation that would favour larger companies that might be able to bear the technology burden more, not a straightforward implement.

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**Mr. Jeff Yurek:** Would it be beneficial to, say, commercial companies who are having a problem with taxi companies? For instance, the fleets being covered in insurance that's usage-based so they could actually pinpoint on the cabbie who's doing the driving and charge him, probably, more than others?

**Mr. Neil Parkinson:** Possibly; I'm not sure I could really comment definitively.

**Ms. Barb Taylor:** One of the things that usage-based does is to track the types of driving behaviour that might influence potential losses. What it can do is track people who drive at higher speeds, or maybe have more braking—things like that. If it can track problematic driving, then, yes, from that perspective it would be helpful to be able to determine which drivers are better than others.

**Mr. Jeff Yurek:** So that would help Bas, definitely, with his—

**Ms. Barb Taylor:** It would help you differentiate between the better driver and the not.

**Mr. Jeff Yurek:** Okay.

Did you guys have a question to ask? No? How much time do I have left?

**The Vice-Chair (Mrs. Donna H. Cansfield):** You have about four and a half minutes.

**Mr. Jeff Yurek:** Okay. Can you tell me, going back to usage-based—you say it's a relatively new product—how long it would take you to get it on the market? And why isn't it there already?

**Ms. Barb Taylor:** Well, we recently had a user-based symposium, and what we heard from some of the technology people was that it could take upwards of nine months to a year to actually get it implemented. There's a lot of back-end type of work to set up the system. There's technology involved and there's a system of tracking the individual drivers before you can be able to establish what the rates will be, so for about three to six months, the people have to actually put a recorder machine into their car, and then they have to track the driving.

There also has to be a system of setting up the whole data and how the data are going to be used and collected,

and how it can be used. There are also privacy issues related to the user-based insurance. So all that has to be overcome.

One of the biggest hurdles, as well, is rate regulation. To be able to get it filed with FSCO, there's a lot of hurdles involved in that process.

**Mr. Jeff Yurek:** Okay. Anything you wanted to add that you didn't get out in this presentation? I'll give you the rest of my time.

*Interjection.*

**Mr. Jeff Yurek:** Yes, Mike, you can ask.

**Mr. Mike Colle:** Yes, I wanted to ask how many insurance companies operate in Ontario, just for the record? Jeff, you could ask.

**Mr. Jeff Yurek:** Yes, how many insurance industries—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Okay, gentlemen. Thank you very much for your presentation. It was excellent.

*Interjections.*

**The Vice-Chair (Mrs. Donna H. Cansfield):** Okay, we're even.

## INSURANCE BROKERS ASSOCIATION OF ONTARIO

**The Vice-Chair (Mrs. Donna H. Cansfield):** Our next presenters are the Insurance Brokers Association of Ontario. Thank you very much, gentlemen. Would you please introduce yourselves?

**Mr. Rick Orr:** Hi. My name is Rick Orr. I'm chair and past president of the Insurance Brokers Association of Ontario. With me is our CEO, Randy Carroll.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. You have 10 minutes for your presentation, and then we'll begin the rotation with the Liberals.

**Mr. Rick Orr:** On behalf of the IBAO, I would like to thank the Chair, the members, and the staff of the committee for inviting us here today to provide our input into the committee's auto insurance deliberations.

The Insurance Brokers Association of Ontario represents 12,000 insurance brokers who assist six million consumers across the province of Ontario with their auto and property insurance needs. Our priority is to protect the interests of our customers, from the time they purchase a policy through to when they may need an independent advocate in the event of a claim.

Those not too familiar with the insurance industry sometimes mix us up with the insurers themselves and their association, the IBC. While we often work closely with insurers and IBC, we do not represent insurers. We are licensed and educated professionals whose prime concern is that of our customers, the consumer. Insurance is a complex product and we believe that consumers should get and need expert advice tailored to fit their own individual circumstances and needs, in order to ensure that they are properly protected in the event of a loss. As an association, IBAO often differs on certain policy

matters with insurers, as a broker's prime responsibility is to advocate and serve their customer, often giving a very different perspective from that of the companies themselves.

Today, we'd like to talk to you about auto insurance and give you our perspective on the discussion happening here at Queen's Park. We'd also like to discuss the issue of broker independence that is referenced in the motion establishing this committee.

As you all know, auto insurance, and more precisely, the high price of auto insurance premiums, has been a hot topic here at Queen's Park. The third party has made lower premiums one of the conditions that must be satisfied for them to support the government's upcoming budget.

Indeed, the issue of affordable auto insurance for our customers is a prime concern to IBAO and our members. IBAO supports providing lower rates for our customers and is eager to support measures that will do so in a responsible fashion. However, the key word is "responsible."

One of the key drivers of increasing auto premiums has been the growth in accident benefits. Fraud and abuse of the system have been major contributors to this growth. In response, the government established the Auto Insurance Anti-Fraud Task Force in 2011. The task force established delivered its report, and the government released it in November. The report estimates that fraud and abuse of the system is costing Ontario drivers up to \$1.6 billion a year.

IBAO is very supportive of the task force's final report and would like to see its implementation as soon as possible. If government would implement the report and its remaining 31 recommendations, we believe it could help achieve premium reductions. IBAO was encouraged when this year's throne speech made mention of the government's intent to implement the task force's recommendations.

The key recommendations of the report are regulating health clinics' auto insurance business practices; regulating the towing industry; expanding investigative and enforcement authority for the Financial Services Commission of Ontario; and developing a consumer engagement and education strategy.

Many of the recommendations can be implemented by regulation or other means, but the key recommendations requiring health clinics and tow truck regulation require new legislation.

We know that the passing of required legislation or regulations to implement these recommendations will take time. That is why IBAO is looking to all parties to support the passing of these needed changes as quickly as possible. Ontario consumers simply cannot afford any further delay tackling the fraud problem. It would be most unfortunate if an election were forced this spring, as that would delay action and reductions for an indefinite period of time.

Tackling fraud will help reduce premiums, but there are other measures that we need to talk about and must be tackled immediately to help lower rates.

There is a large backlog in the dispute resolution process at FSCO. It was identified in the 2011 auditor's report. FSCO has been working to fix this. However, a significant backlog still exists, creating uncertainty for legitimate claimants and delaying the efficacy of the 2010 reforms.

Part of the reason rates have not come down faster as a result of the 2010 reforms is that decisions on post-reform cases have not been adjudicated for over two years now. Only in the past month has a case been decided under the new regime. The recent Scarlett decision challenges the prescribed circumstances in the regulation that determines whether a minor injury falls within the minor injury guideline. Regardless of whether you believe in the validity of the decision or not, it underlines our concerns that the massive backlog has prolonged the uncertainty and has delayed decisions by insurers to reduce premiums based on the 2010 reforms.

The other measure that will help reduce auto rates is the implementation of the new catastrophic definition that has been approved by FSCO and is sitting at the Ministry of Finance. The new definition is evidence-based and was put together by an expert panel. Implementing the new cat definition will end uncertainty for insurers, help the catastrophically injured get treatment faster, with less delay, and allow insurers to better price their product.

I'd now like to move to the issue of broker independence. This is a matter that is of fundamental importance to the IBAO. One of the key advantages of the broker channel versus direct writers or agents who represent only one market is that brokers are independent, and we shop the market for our consumers, often checking four or five and often as many as a dozen different companies, picking the best coverage and price for that customer. Any development that would threaten the perception of independence of the broker channel is of serious concern to the IBAO. Historically, the phenomenon of financial linkages between insurance companies and brokerages has always been present.

When we were last here in May 2012, we tabled a 2005 survey entitled *Managing Conflicts of Interest*, conducted by our regulator, the Registered Insurance Brokers of Ontario, or RIBO. We highlighted the main conclusion of the report, that "there does not appear to be any unexpected concentration issues or any 'steering' issues among brokerages that have a business relationship with a particular insurer in Ontario."

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Recognizing that the survey was seven years old, we committed in May to work with RIBO to update that survey. RIBO has conducted a new survey, and they have authorized us to share with the committee its preliminary findings.

We can report to you that the survey did not reveal any significant statistical change underlying the above conclusion. For example, in 2004, 3.5% of brokerages had insurer shareholders; today, it's 1.7%. In 2004, 7.9% of brokerages had loans with insurers; today, that's 9.4%.

In 2004, all categories together, there were 157 brokerage firms that had a financial linkage or business relationship within companies, or 13%. In 2012, there are 153 brokerage firms, worth 13.1%.

These findings provide comfort to IBAO that the broker channel remains robust. However, we are still concerned that insurers with deep pockets are continuing to flex their financial strength to buy and outright own brokerages, resulting in the potential for steerage and the diminishment of independence over time. IBAO will not hesitate to protect the independence of the broker channel, including asking for regulatory intervention.

When RIBO finalizes its survey, they have indicated that they will share the final report with this committee.

With that, I conclude our report and would be happy to take any questions.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. We'll start with Mr. Colle.

**Mr. Mike Colle:** Again, two more acronyms: RIBO and SABs, okay? Just add them to the list.

I just want to ask your advice. The brokers sort of act as an agent between the companies and the driver. Could the role of the broker be expanded? Because this might be a constructive way of getting rid of that hostility that exists between insurance companies and the consumer.

I'll give you an example. I've got an auto body repair shop. The owner is a guy by the name of Rocky, okay? He tells me a customer of his comes into the office and says, "My car was in an accident. It's across the street at the ABC new car dealer. The tow truck guy told me I had to bring it there." It's across the street, remember. Rocky is just on this side, the east side, and it's the west side. He phones the new car dealer and says, "Listen, one of my customers says that you have his car in your lot. He's my customer. He wants me to fix his car." Well, the new car dealer says, "Sorry, Rocky, you can't get the car. If you want the car, it will be a \$2,000 administration fee." Rocky says, "Well, the car is across the street. I'll come over and drive it over. It's driveable." "It doesn't matter. I have the car. You want the business? You want to repair his vehicle? It's 2,000 bucks in an administration fee."

There is an example of where—you know, we talk about fraud. These are not fly-by-night auto dealers or used car dealers; this is a new car dealer. Couldn't a broker somehow be brought in to say, "Listen, you're all going to end up paying for this in higher fees down the road. Can't you work out something where you can drive the car across the street, get the car fixed, make the customer happy, everybody saves money, and there's really speedy work done on the car?" Could that possibly be an expanded role of a broker? You could be phoned up by Rocky or the guy who had his car in a hostage—whatever it is. Could that possibly be a role you could play?

**Mr. Randy Carroll:** Do you want to take the first part?

**Mr. Rick Orr:** I was going to say that I'll take the second part.

**Mr. Randy Carroll:** I think in fairness, we've actually started a fairly robust consumer education campaign, making sure that consumers understand that they have rights under their policy and they have choices in regard to where they can go to get their car fixed so they actually avoid that type of situation from the beginning. We just launched towards the end of last year a mobile application that has a list of preferred auto body shops, so they can actually get directed to a preferred shop from the accident scene, something that consumers have never had before. Our brokers are actually pushing those out to the consumer at no cost. They're free to the consumer. They can download them into their mobile device. So if they're involved in a motor vehicle accident, they can get directed to a—

**Mr. Rick Orr:** Reputable shop.

**Mr. Randy Carroll:** —reputable shop that's close by, that we have—

**Mr. Mike Colle:** But, Randy, the tow truck guy—six foot six—he's saying, "I got your truck. I'm taking it. You try to get it off me."

**Mr. Rick Orr:** And there's the second part to the answer. It's not an issue for the brokerage, as far as we're concerned. It's part of the anti-fraud task force, and one of the key recommendations is regulating the tow truck industry. If we can put more regulation into the tow truck industry that prohibits the payment of fees from body shops, paralegals, health care practitioners for delivery of that vehicle and that passenger to them, then we can reduce the fraud in the province.

**Mr. Mike Colle:** Okay. Another question is, there are two things that I've talked to the IBAO about over the years that I think will help reduce auto insurance rates, and that is the First Chance system. Could you just explain briefly to the other members of the committee how this might benefit drivers and might help reduce rates?

**Mr. Randy Carroll:** The First Chance discount is really for young drivers or new drivers. The way the system works currently—I've got an 18-year-old, so I'll speak to my own circumstance. If my 18-year-old was newly licensed, and did not go through a driver's training program, there's a star classification within rating that is a six-star classification—six being good, one being poor, zero being really, really bad. So my son, newly licensed, would actually get a one-star rate, which is very high. If my son takes driver's training, he would actually get a three-star rate. Under First Chance, my son would actually get a six-star rate, if they took driver's training. So they would actually earn the best of the best rating. If by chance they were involved in an accident, or did not respect the fact that they were getting a good rate for their first opportunity—so they didn't pick up convictions, if they didn't get into an accident, they'd actually keep that rate versus losing it. It's a lot easier for the broker to have a conversation with the consumer telling them why they lost a rate as a result of driving habit versus having somebody come in and start to pay high rates when they can least afford it, and then try to bring those rates down, down, down over time.

First Chance in the Atlantic seems like it's working okay. It's been there for about four years now. It stumbled out of the gate a little bit, but even when you look at the Atlantic provinces, they didn't have some of the caps that are in place today to help them with that program.

**Mr. Mike Colle:** Yes, I think Nova Scotia was—

**Mr. Randy Carroll:** Nova Scotia and New Brunswick. Yes.

**Mr. Mike Colle:** But this also—not only the young driver, but all of the newcomers. I mean, we get 100,000 newcomers coming to Ontario every year, and they get hit with the one-star or zero rating, right?

**Mr. Randy Carroll:** Yes.

**Mr. Mike Colle:** Because no matter whether they drove 20 years in Singapore, they come here and they're treated like a new driver. Is that still the case?

**Mr. Randy Carroll:** For the most part.

**Mr. Rick Orr:** Yes.

**Mr. Mike Colle:** So the First Chance discount might help.

The other old chestnut is this other very tricky issue of credit scoring. Could you just explain the IBAO's position on that, because I know many people—I've put forward private members' bills about this. Essentially, if they don't—the linkage between auto insurance and home insurance. As you know, they say, "Well, we can't use credit scoring to deny you auto insurance, but we can use it because home insurance is not regulated." They'll say, "Well, we will look at your credit scoring because we couple home insurance with auto insurance." So, in a way, they're backdoor credit scoring.

I've had my discussions with the Insurance Bureau of Canada about this. They don't like the idea of banning credit scoring. But could you just explain the benefits of getting rid of this practice of credit scoring and penalizing people?

**Mr. Randy Carroll:** We really encourage consumers to bundle their products. It makes more sense, and they get more discounts that they're able to put their auto insurance with their home insurance. When they're not allowed or able to because they've got poor credit on property, and they're not able to bundle the insurance, their auto insurance rates go up on average by 10% to 15% as a result of that.

So we've got an industry where we've made an informed decision that credit scoring should be banned outright in the usage as it relates to automobile insurance, pricing and underwriting, but we've got an open game on the property side.

You're right: Insurers will—they kind of have a free market in regard to how they manage the property policy and how they manage the property pricing, and if I've got somebody who's got a poor credit risk on the property side, then I can actually get rid of the automobile insurance by pushing the property price up, or I just lose the property. The consumer loses the discount and is paying more for the auto insurance than they should be. So

without a ban on both sides, the consumer's the one who suffers at the end of the day.

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**Mr. Rick Orr:** So we remain opposed to the use of credit scoring on property or auto insurance. And keep at it, Mike.

**Mr. Mike Colle:** Okay. The other area's about the relationship between the insurance companies and the brokers. There have been issues in the past where if brokers don't play ball, sometimes they won't be, say, given the opportunities to essentially deal with that company because that company might find a way of almost blacklisting a broker who may not be co-operating as they should with the insurance company. How are the issues regarding your availability of providing products from various different companies? Is that area tightening up or is it more wide open? What's happening in that situation?

**Mr. Rick Orr:** Following the 2010 reforms, of which the intent was to stabilize the auto product, the market has really stabilized. Our belief, when we went out and educated 12,000 members in the province, was that the reforms weren't to reduce the cost of auto insurance, they were to stabilize it. If we didn't do something then, it was going to become completely unaffordable. And it did, it achieved that. It achieved a stabilization—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Carroll. We'll now pass the questioning to Mr. Yurek.

**Mr. Jeff Yurek:** Thanks, Chair. Thanks, guys, for coming out today. Can you do an overview for me—we all hear about the insurance industry's profit-loss since 2008. How is that reflected with the brokers of Ontario? I'm sure you must have some story to tell; just update us.

**Mr. Rick Orr:** We follow the OSFI numbers; and you're right, from 2008 we read them, as you do, where the profitability was terrible. They were losing billions of dollars in a year and at that time—there was a question asked earlier about the availability of market. There was definitely where insurers were looking write less risk. I believe Facility was asked earlier in the day, and at that time the Facility population was about 14%, 15% of the market. Today—I haven't got the numbers, but it's below 5%. So as the markets stabilized and made more profit, there was more competition, there was more of an open market and consumers were able to get better rates. But that was the ups and the downs of the market. Right now, we're in a stable-ish place and the market—

**Mr. Jeff Yurek:** And how has that affected the broker industry? How have they weathered the storm? What effects have occurred to them?

**Mr. Randy Carroll:** Insurers are writing business openly. We really don't have availability issues at this point in time. There was a swing to improvement in regards to the overall industry performance. We did improve by about 2.8% to 3% on an overall basis. One of the things that we need to really concern ourselves about is availability and affordability. We've got, like Rick said, a Facility pool that's not being abused. So the swing

with what we've seen from the reforms has been positive. We're hopeful that there's some more room there, but there's a lot of uncertainty that needs to be dealt with before we'll actually see that wiggle room start to come towards the consumer, as far as we're concerned.

**Mr. Jeff Yurek:** Now in regard to the motion passed in the Legislature regarding a 15% rate cut, what's your membership saying about that motion?

**Mr. Rick Orr:** They agree that it needs to be a responsible cut; 15% isn't sustainable. The concern that they've got is that it again comes back to market availability. If a 15% cut were put through the industry, you'd see a lot of shenanigans begin to be in play. Back in 2008, if you were a young driver and you went to a number of direct websites, all of a sudden their website would crash. The delays on hold were just unconscionable. We don't want to return to that. We believe that the open market's there, we just need to fix the product and make it better going forward.

**Mr. Randy Carroll:** You'll have a lot of consumers out on the street looking for product. Insurers will respond by trying to figure out where they're profitable and where they can—and I think I heard earlier—actually reduce that risk, and if they have brokers located in areas that are highly populated, or are not as profitable in others, those brokers will lose their contracts. Those brokers will get cancelled. Those consumers will find themselves on the street trying to find rates somewhere. If that consumer had the misfortune of having an accident in the past six years, that rate that was unaffordable will actually go up again because now they're going to try to find a new home at a higher rating than what they had. So you'll see an exodus from the marketplace.

Some insurers can't afford a 15% mandated reduction and they would have to make some informed choices. We'd be back to availability, we'd be back to affordability, and we'd be back to having the Facility pool as our number one choice of market. It was not that long ago we were there; we don't need to go back.

**Mr. Jeff Yurek:** Now, with regards to if the cut went through and the availability of brokers or the brokerages' business as a whole, would they be in jeopardy, you would think?

**Mr. Randy Carroll:** Somewhat, yes.

**Mr. Rick Orr:** Yes. You lose enough market and—as a broker, you've only got a couple of markets left, and they only have so much capital available. Even solvency becomes an issue if you start taking 15% off.

**Mr. Jeff Yurek:** So this could trickle down to job losses outside of just the insurance industry by itself—

**Mr. Rick Orr:** Outside of the companies, down to brokers, yes, for sure.

**Mr. Jeff Yurek:** Okay. What I've learned is that when you want to implement a discount like the young drivers pool, *per se*, there's a lot of regulatory burden put on the insurance to put out a full rate application to get a process. Would you agree that it would be beneficial to both brokers and drivers as a whole if we could make that process a little less bureaucratic, and open?

**Mr. Rick Orr:** A year ago I would have said no. But in the last budget, administrative and monetary penalties were put in place which allow FSCO, the regulator, to apply the appropriate fine for the appropriate crime against the insurance companies, which makes them much more accountable.

In the old days, it was either a slap on the wrist or criminal charges against the CEO. Now they can apply the correct monetary fine. So I agree. Something like file-and-use would make the marketplace more competitive but still have protection there for the consumer.

**Mr. Randy Carroll:** It would take the cost burden away as well. If you've got an insurer that wants to lower rates, they can; if you've got an insurer that wants to increase rates—you've got to put guidelines around file-and-use to make sure that it's used the right way and not abused. But I totally agree with Rick. With administrative monetary penalties now in place, our comfort level with that going forward is totally different than what it was, and we would support that 100%.

**Mr. Jeff Yurek:** This is more, I guess, an opinion: My concern for Ontarians is this motion that passed in the Legislature, although some on the other side are saying it's symbolic. Either way, it's a motion of a 15% cut. My concern is that from this day forward until whatever happens, insurance companies aren't touching their rates. They've pretty much frozen them from going down any further, and you might actually see an increase because they know an impending 15% is coming their way. We talked to FSCO earlier today; they don't even have the powers yet to do so. So, I mean, by the time they get the powers, the Legislature might have inadvertently hurt the insurance industry with this motion for the next two or three years before things can get in place. Your thoughts?

**Mr. Randy Carroll:** I think you've got three things; two months ago we had two. We had the uncertainty around the cat definition; we had the uncertainty around arbitration and mediation. Now we have the uncertainty about a mandated decrease. I have not talked to an insurer that would voluntarily bring rates forward coming down with the uncertainty hanging over them that they may be mandated to bring it down further.

So I think we have hurt consumers. The sooner we put that discussion behind us, the better we're going to be.

**Mr. Jeff Yurek:** Okay. I'm speaking too close to the mike. I feel like I'm a rock star or something. Sorry.

**Mr. Randy Carroll:** Well, let me tell you—

**Mr. Jeff Yurek:** How much time do I have left here?

**The Vice-Chair (Mrs. Donna H. Cansfield):** A couple of minutes.

**Mr. Jeff Yurek:** A couple of minutes.

Gentlemen, I'll let you add anything you might have missed in your comments. You've got a minute and a bit; just throw whatever you want out.

**Mr. Randy Carroll:** I'll come back and answer a question that you asked earlier that I don't think you got an answer to, and that was around telematics. I think that telematics does have its place today, looking at the

commercial side of the business, but I think we really need to be cautionary going forward as we look at how that's going to affect the consumer, mom and dad, with the driving of their own vehicles. Who owns the data? Does the consumer own the data? Is the data owned by the telematics provider? Is it owned by the insurance company? And making sure that there's access, and open access, to that data.

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Currently, if I'm involved in a motor vehicle accident, or even if I'm involved in an accident and I'm unhappy with my insurer, I have the right to go down the street to another insurer, but I can answer a series of questions for that insurer and let them know how I performed in the past. But if I'm using telematics and I don't have access to the data, I can't answer the questions, so I kind of get tied in to one insurer more than what I would like to be.

As we move down that path, I think we need to make better-informed choices from a government's perspective than what we've seen south of the border and making sure that there are consumer protections in place before we get there.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Singh?

**Mr. Jagmeet Singh:** Welcome. Thank you for being here. You touched on broker independence briefly. I just want to touch on that as well. You indicated that there could be—and I think that was a very measured and a very thoughtful way of looking at it—an issue and you said that your regulatory body would work to ensure that that didn't become an issue. Maybe you could just describe the potential that could exist and what RIBO could do to prevent that. You touched on it briefly. If you could just expand on that.

**Mr. Randy Carroll:** If I turn back the clock—at the time I think it was 2002—there was a stipulation that insurance brokerages had to be owned 51% by the principal broker. Within some changes in government legislation and regulation, that requirement was removed. What we see now is, we see insurance companies having the ability to own an insurance brokerage 100%. By buying and competing in the open market, I can tell you that my friend here who's trying to compete against those dollars does not have the same pocketbook as an insurance company when they're trying to grow by acquisition.

I think long term it's something that we need to take a further look at because there is a risk if the insurance companies continue to buy and remove the independents from—as the RIBO report said, it's very minimal at this point in time, but I think there is a risk for that to grow. It's something that we should look at.

**Mr. Jagmeet Singh:** You had briefly touched on, in your report, the current shareholding by insurance companies and its impact. Could you describe that right now, what the impact is, if any?

**Mr. Randy Carroll:** Yes. We've got an association that represents 650 insurance brokerages in the province, and we have about 18 brokerages that would be owned in excess of 50%.

**Mr. Jagmeet Singh:** What type of impact has that had so far for consumers, if any?

**Mr. Randy Carroll:** On the consumer side, I'll let Rick speak to it. I'll speak to it from the broker side.

**Mr. Rick Orr:** Most of them do a good job as far as the consumer goes. Most of them still shop the market, provide choice. There's a select few that prefer their own supplier, but even on that, where they've got a different product that fits a specific niche they will use different niche products. I don't think certainly at this point that the consumer is being selected against.

**Mr. Randy Carroll:** The consumer still has the option of either—

**Mr. Rick Orr:** Going somewhere else.

**Mr. Randy Carroll:** —going or staying, right?

**Mr. Rick Orr:** I certainly advertise, "Call me."

**Ms. Teresa J. Armstrong:** I want to get back to the rate effects that we're talking about. For a little bit of history, I want to ask, have you ever seen a rate reduction in your time as a professional broker?

**Mr. Rick Orr:** We had one in—when was it mandated? Was it 2003?

**Mr. Mike Colle:** 2003. Yes.

**Mr. Rick Orr:** Did you do that?

**Mr. Mike Colle:** Yes.

**Ms. Teresa J. Armstrong:** Roughly what was that reduction in rates?

**Mr. Randy Carroll:** I think the mandated request was around 10% and ended up to be around 14%. I listen; I do.

**Ms. Teresa J. Armstrong:** That's my recollection too.

**Mr. Randy Carroll:** Mine as well.

**Ms. Teresa J. Armstrong:** What was the response of consumers to that legislative rate decrease? And can I ask the reason? Do you recall the reason why it was legislated as a decrease?

**Mr. Randy Carroll:** I don't, actually. I can't recall a reason why. It was before I was a broker. Maybe I wasn't paying as much attention as I do today, but I don't know.

**Ms. Teresa J. Armstrong:** The reaction of consumers: What kind of response did you receive?

**Mr. Randy Carroll:** The reaction of any consumer when prices are going down is positive, right? We totally support any initiative that will actually bring prices down. We just have to make sure that we don't put ourselves back into a framework of destabilization. We've actually got things stable now. We can't go back in reverse, right?

**Mr. Rick Orr:** If we could reform the product and have a corresponding rate, that would be—

**Ms. Teresa J. Armstrong:** Did you think people called you and said, "Did I lose coverage?" because your rates went down? Did you have that reaction?

**Mr. Randy Carroll:** I didn't have any of those calls. You?

**Mr. Rick Orr:** You always get the odd call; sure, you do. It's less "Why?"

**Ms. Teresa J. Armstrong:** Yes. "Did I lose something?"

**Mr. Rick Orr:** We're Canadians; we're truly cynical people.

**Ms. Teresa J. Armstrong:** "Did you forget to charge me for something?"

**Interjection:** That's right.

**Ms. Teresa J. Armstrong:** On that premise, in 2010, the accident benefits were reformed to stabilize premiums. Are we in agreement on that? When people got their renewals, their premiums were pretty much—actually, some of them, a lot of them, went up. Very few stayed the same. But all the notices that were being sent out were alerting consumers that their coverages went down.

Between 2003, when the rates went down and they didn't think they lost any coverage and they were happy—then their rates stayed the same but they were losing that coverage. What kind of reaction did consumers have at that point?

**Mr. Rick Orr:** It was an interesting reaction, because 2010 was the first time that, as an association, we took it upon ourselves and we committed that we would go out, and we took to the road for a month and we did road shows across the province and met with almost every one of our members. So the education that brokers delivered to their consumers was far in excess of any other change that we've had in the product, and it generated a lot of phone calls. It generated a lot of discussion about, "What is it that you need? These are what the changes are, but what are your individual circumstances, and what can we do to make sure that you're protected in the way that you need to be protected?"

**Mr. Randy Carroll:** It was mixed, the feedback that I received from brokers. Some consumers understood the stabilization, and some were irate. It was all over the map.

**Mr. Rick Orr:** Geographically really drove whether your premiums stayed, dropped or increased.

**Ms. Teresa J. Armstrong:** The options that consumers had the choice to purchase: Did you find a lot of consumers purchased those options, or has anyone taken, statistically, what options are being purchased? Because there were drastic reductions in the accident benefits. Your premiums stayed the same or they went up, and if you wanted an option, you paid more. A lot of people felt they were already paying enough. Have those statistics or reports been kind of followed, tracked?

**Mr. Randy Carroll:** They have been tracked, but loosely, I think.

**Ms. Teresa J. Armstrong:** Okay.

**Mr. Randy Carroll:** Our best guess, from broker distribution, is we had an uptake of around 4%.

But it's really interesting when you go back and take a look: If I had a conversation with a broker whose client base was industrial, where they had good benefits, then the take-up was minimal. But if I went and talked to a rural broker who was dealing with customers who didn't have benefits afforded to them, the take-up was higher.

**Mr. Rick Orr:** My own brokerage took it upon ourselves to pick up the phone and have a conversation with every one of our clients. My staff wasn't very happy with me. We had a take-up rate of over 25%.

**Ms. Teresa J. Armstrong:** I'm going to just pass it to Jagmeet. He has one last question.

**Mr. Jagmeet Singh:** Just a couple of quick points.

The product has changed substantially. Caps have been dramatically lowered. People agree, and I think you might agree as well, that by reducing the caps, fraud was significantly reduced as well. Naturally, people who were claiming higher couldn't claim that amount fraudulently. But as well, legitimately injured people were no longer receiving the significant savings in the industry.

Post 2003-04, there wasn't a significant decrease in terms of the industry all of a sudden up and leaving the province. With these significant savings, with the significant profit increase in the industry—I mean, given that, a 15% reduction shouldn't result in anything as drastic as what you suggested when you were asked by my colleague from the Conservative Party, given the change in the product. But in 2003-04, there wasn't that significant change in the product. I would say it's a historic change this time.

**Mr. Rick Orr:** It was a different time, and we weren't talking the same dollars we are today. Today, the market's concentrated. We've got fewer insurers. We've seen the numbers and where the profitability is. There are some insurers that can afford to take some rate. There are others that are losing money today. To force another 15% onto them—how do you force an industry to lose money? I can't imagine why they'd stay in business.

**Mr. Randy Carroll:** And I think a few of the things that we learned from that as well—we did have exodus from insurers, because we had a problem with our Facility pool. Our Facility pool drastically grew. We had to put guidelines in place to make sure that we had all comers that we didn't have at that time—that we had restrictions on who could actually be placed in the Facility pool and who couldn't be placed in the Facility pool.

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So I agree with Rick. I think a lot has changed from that point in time to where we are today.

**Mr. Jagmeet Singh:** You see, I'm sure, that some companies are ready. The Co-operators of Guelph is a company that has filed for about a 10% decrease in certain areas, which is a significant decrease, and they filed for it this year, 2013. There are some companies that have recognized that they're saving a lot of money, and they're passing those savings on. Some companies haven't. An average 15% reduction would see some companies that have already reduced reduce it a bit more, and some companies that haven't reduced at all have to reduce it significantly. But I think an average reduction wouldn't require every company to do it the same way.

**Mr. Randy Carroll:** I agree, but I also come back to the uncertainty. If the uncertainty is removed I think you'd actually see a voluntary reduction, because there's too much of an unknown just in those two categories.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, gentlemen. It was delightful.

**Mr. Rick Orr:** Thank you, Madam Chair.

**Mr. Randy Carroll:** Thank you.

## ONTARIO TRIAL LAWYERS ASSOCIATION

**The Vice-Chair (Mrs. Donna H. Cansfield):** Our next presenters are the Ontario Trial Lawyers Association. Good afternoon. If I could ask you to introduce yourselves, please. You have 10 minutes for your presentation, and then we'll have a rotation. Mr. Yurek, you'll be taking the first rotation. Is that right, Mr. Yurek?

**Mr. Jeff Yurek:** Sure.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you. Gentlemen, please introduce yourselves.

**Mr. Andrew Murray:** My name is Andrew Murray. I'm the president of the Ontario Trial Lawyers Association. To my left is John Karapita, who is the director of—

**Mr. John Karapita:** —public affairs. There we go.

**Mr. Andrew Murray:** —and my trusty aid at all times.

This is my third occasion to speak before this standing committee, and I've welcomed each of those opportunities. I'm grateful that people want to hear what I have to say for a third time. My comments today are going to include a macro-level policy observation and some micro-level examples from my own filing cabinet and from stories that I hear from our members, because I think that might be one of the best ways that I can help illustrate some of the points and concerns that we have.

On the first two occasions I appeared before this committee, there was a lot of discussion about catastrophic impairment and it was the focus of a lot of debate. We've sort of gone past that in some respects and we've gotten now to the point where there is, more or less, a consensus that the expert panel process was a flawed process. That was a point that the Ontario Trial Lawyers Association was making from day one. Other than perhaps the Insurance Bureau of Canada and maybe Mr. Howell, who appeared earlier today, there seems to be agreement that that process was flawed, and essentially people have gone back to the drawing board. Our group has participated with the latest round of round-table discussions. We understand that it's an ongoing discussion, and that's what it should be.

There's a lot of discussion topically in the news right now about the issue of profits and profitability. Again, it was our organization that called for a reduction in premiums last fall when we started to see some of the increased profitability numbers come out. I do have some macro-level observations to make on that point, keeping in mind that I'm not an actuary or an accountant and my association is not a group of actuaries or accountants. Really, what I have is more questions and observations, I suppose, than answers, but it occurs to us that with the wildly divergent statements as to profitability that we're hearing, when there should only be one number—this is a

financial analysis. The numbers are the numbers. Surely to goodness there has to be a number that makes sense. When I observe that even the IBC experts who testified earlier today had quite significantly different numbers with some of their forecasts, it really calls for an independent review to simply get down to the bottom of what is the right number. That's why our group was one of the groups that recommended having the Auditor General do a comprehensive review to shed some light on these issues. So I would recommend that going forward as something that would be helpful.

I don't have the responsibility, as a legislator, of having to actually tackle this. I can make recommendations. If I were in the Legislature, I would want to know what the numbers are before I started making concrete plans. While we've suggested that there should be a reduction in premiums, we're not in a position to say whether that's 10% or 15% or some other number. There should be a reduction based on what we've seen, but the data has to come out. We seek a transparent disgorge-ment of all that financial data.

Let me turn to some micro issues in my prepared statements. You should have a benefits statement that was handed out to you. The name of my client has been redacted, and the name of the insurance company has been redacted, because neither is important for the purposes of this committee. But this is the sort of thing that I see in my practice which makes me shake my head, and it should make everyone in this room shake their heads as well. You'll see that the accident happened in September 2012. To date—and this is a very recent statement, from March 20—just under \$1,300 has been paid in medical and rehabilitation benefits. You'll see the insurer-requested examinations. These are the examinations that the insurance company has requested, not that my client has requested or that I've requested. Some \$10,406 spent in insurer-requested examinations in connection with under \$1,300 worth of med rehab benefits paid. That is horribly disproportionate. If you're looking for places where there can be savings, we need to look at places like this. This is not on every single file, of course. This is a bad example, but it's not uncommon in my cabinet, and it's not uncommon in the cabinets of those who belong to my organization.

There's a second handout here; it's a two-page hand-out. It's the story of Maria Rivera. She's my client. She has given me express permission to use her name. She had an application for catastrophic impairment that she put forward, and it was denied. There's nothing inappropriate about that. The insurer is certainly entitled to deny it. But what happened was that we sought an application for mediation to dispute that denial, because that's the process we have to follow. That happened in March 2012. In August 2012, FSCO published the bulletin saying that the parties can now fail these mediations on consent. Within two weeks, I called the adjuster. We reached an agreement that we would fail this one because it was such a significant issue. It wasn't amenable to resolving at the mediation.

She then sent me a rather contrite letter, and I've excerpted part of it, saying, "I have a corporate directive from on high. I'm not allowed to just fail this. I'm sorry, Andrew." She maintained her relationship with me. It wasn't anything she could do. We then get to our mediation, which was in February 2013, only to be told, "Well, we just want to fail this mediation." So we wasted our time from August to February for no other reason than that the insurer was in a position to do that, and that's a travesty.

We heard earlier about delays in the system, and it goes both ways. So there's a delay in figuring out what is the minor injury guideline going to be and how is it going to be interpreted? I agree. That delay is not good for anyone, and this delay is not good for someone who is so badly injured that she says she has a catastrophic impairment. Her insurer says not, but even if it's not, she's a badly injured person or she wouldn't be there.

The mediation backlog is an area that our organization says needs to remain as a focus for everyone. We've made some improvements. So in this case here, ultimately, after ADR Chambers was appointed as the outsourced mediator, we did get our mediation done in just under a year. That's better than 14 months—we are getting there—but it's not great. It's nothing to brag about.

We talk as an organization about the need for caution and the need to be aware of the three Ps: premiums, which is just one aspect of what we need to look at; protection for the consumer; and profits. In this respect, I'm not sure that I'm saying things that are altogether different from the IBC. We need to have a driver-first approach to this, which includes how much is it going to cost them to insure themselves, and are they adequately protected?

So I would encourage this group not to lurch from crisis to crisis and stamp out a fire without looking at what might be burning over on the horizon. When I was here before, I said, "Don't only look at the catastrophic impairment issue. You need to look at protection, and you need to look at premiums and profits." I'm now here today saying, "Don't look only at the issue of premiums, because that's on the short horizon. We also have to consider other issues." Is catastrophic impairment adequate? Is the minor injury guideline adequate?

Polling our members, we know that those benefits have been eviscerated for the vast majority of people who need to access those benefits. There's a mandatory review that's under way right now that has been commissioned by FSCO. What we don't want to see happen is that that mandatory review leads to the recommendation that, in fact, those benefits be increased from \$3,500, let's say, to \$10,000 or \$15,000, but we now find out there's not money in the system to do it because we've used it all up on reducing premiums.

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So I just say be cautious with anything you do, about the law of unintended consequences. You might need some of that money not to go to premium reduction, not to go to boosted profits, but in fact to go to enhanced protection.

Those are my prepared remarks. I welcome your questions.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Murray. We'll start with Mr. Yurek.

**Mr. Jeff Yurek:** Thank you, Chair.

*Interjection.*

**Mr. Jeff Yurek:** Is that good? Is that better?

**The Clerk Pro Tem (Mr. Trevor Day):** You're good.

**Mr. Jeff Yurek:** Perfect. Thanks.

The Auditor General noted in his report that 99% of people who dispute a claim seek legal counsel. Of course, you must notice that—

**Mr. Andrew Murray:** But not everyone comes to me. They should.

**Mr. Jeff Yurek:** My understanding, though, is that during the dispute process, you also have to go to a FSCO-mandated mediated process, but at the same time, my understanding from talking to lawyers and such, is that lawyers talk amongst themselves anyways through a process outside of that mediation process.

**Mr. Andrew Murray:** If there's a lawyer involved, usually at mediations at FSCO, you're dealing with an adjuster. The file is pulled from the adjuster who made the decision to a dispute resolution adjuster that handles all of the FSCO mediations, with varying levels of authority. Some have the ability to resolve a dispute—let's say it's a \$500 pair of orthotics; or sometimes they don't have the ability to resolve the dispute—let's say it's whether the person is catastrophically impaired or not.

**Mr. Jeff Yurek:** Okay. Just basically to my point, what is the use of the FSCO-appointed mediators if there are other mediations going on around it?

**Mr. Andrew Murray:** Well, there aren't other mediations. You can always have a discussion on a file. Speaking for myself, personally, I always take a proactive approach. If it's a new adjuster I've never dealt with, I call them up and I say, "We look forward to working with you. We share a common interest in handling the file," and that usually generates a good rapport that leads to good results.

The FSCO mediation is a mandatory process, and I am unable to progress through any other stages in dispute resolution unless and until I have a report from the mediator that says there's been a mediation that's been held and it's failed. If you're waiting 11 months, then your dispute is waiting 11 months before you can do anything more at all.

**Mr. Jeff Yurek:** Do you need that FSCO-mandated mediation? Could you actually go quicker through the process without having to add that step?

**Mr. Andrew Murray:** Well, now I could, yes; absolutely now. When it was brought in, you must remember it was 60 days. I think conceptually the notion of having a mediation in place for those who might have small issues in the system—let's call it the orthotics or they need a special pillow or it's 15 sessions of massage therapy. We don't want to have every one of those cases going to a trial. That doesn't make any sense either. And

not every one of those people would be represented. So the idea, the concept of having mediations that are timely to get the people talking, just getting the adjuster to have to look at the file, to make them have to, that's a good thing. What's not good is when it takes so long.

**Mr. Jeff Yurek:** Recent numbers say the wait is an average of 414 days for the process.

**Mr. Andrew Murray:** Okay. I wouldn't quarrel that that's the average. But I would say to you all that I'm finding it's faster now with the newer ones coming on through ADR Chambers, so the outsourcing—

**Mr. Jeff Yurek:** Outside of FSCO.

**Mr. Andrew Murray:** Well, it's still considered a FSCO mediation, but they're outsourced mediators.

I will say to you that I am seeing improvement there. I must say that, that there has been some good work done there.

**Mr. Jeff Yurek:** How can we speed up the process?

**Mr. Andrew Murray:** I think you need to consider improving the ability to fail those mediations where it's clearly obvious that the dispute is so large or the gap is so wide that it's not amenable to a mediated resolution. I think that there's probably a better opportunity to use automation with computers. I see ADR Chambers using computers in a way that I didn't see FSCO doing. They send me emails, they say, "Here's the date for your mediation." I like how I'm seeing them do that, so maybe just ask them how they are doing it. That seems to be working.

I think as well that once we somehow clear up the backlog, then, going forward, we might be able to better keep pace. But I would certainly appreciate the flexibility to proceed, without having to wait for 414 days, to the next level of dispute.

**Mr. Jeff Yurek:** One more question. They had a recent arbitration decision—I guess it was the end of last month—Scarlett v. Belair?

**Mr. Andrew Murray:** Yes, I have it right here.

**Mr. Jeff Yurek:** It stated that any person with a marked impairment—that also includes the psychiatric side of things—

**Mr. Andrew Murray:** Yes.

**Mr. Jeff Yurek:** —can be deemed cat and eligible for the compensation, of course.

**Mr. Andrew Murray:** Oh, I'm sorry. Are you talking about Scarlett or are you talking about Pastore?

**Mr. Jeff Yurek:** Scarlett.

**Mr. Andrew Murray:** Okay.

**Mr. Jeff Yurek:** How do you think this is going to impact arbitration/mediation, going forward, with that change? We can talk about the other one also, if you want to chat on that one too.

**Mr. Andrew Murray:** Well, it sounded like you were asking me—when you're talking about marked impairments, that sounds more like Pastore; that's the catastrophic impairment.

**Mr. Jeff Yurek:** Sorry. Yes, Pastore; Scarlett is the MIG.

**Mr. Andrew Murray:** Yes. So which one do you want me to address?

**Mr. Jeff Yurek:** Both.

**Mr. Andrew Murray:** Okay.

Scarlett is the MIG case, the minor injury guideline case. It's the first case. I don't know that we can say that that's going to do anything necessarily, other than point the way, and before people criticize it, you should read it, because it's actually, I think, a very well-reasoned decision. The arbitrator looks at the text of the accident benefits schedule in French as well as in English, as an interpretive aid, which they're allowed to do, goes through the purpose of accident benefits, historically and currently, and looks at this individual in the specific context and says, "This individual has needs that oust him from the minor injury guideline on some very fact-specific and also on some general levels." So I think it might point the way to simply doing what the MIG says it will do, which is allow you to get out of it when you need to get out of it, but I don't think we can read anything more into it than this right now. It's not binding on other arbitrators, it's not binding on the court, and there's not been an appeal decision on it yet, and I'm sure there may well be. I don't know whether it's going to—the next level of appeal would still be within FSCO, to the director's delegate. So I don't think that's going to change things too much.

Pastore, which is the catastrophic decision: I can't tell you how much it's going to change things, because I don't know, and my organization doesn't know, and neither does anyone in this room know, how many catastrophic applicants there are in the system that fit under this marked-impairment category. And if you hearken back to last summer when I was appearing before this committee, I said, "Please release the data on these cat claims so we know: How many quadriplegics are we talking about? How many brain-injured people are we talking about? How many psychologically impaired people are we talking about?" and then, when we're tinkering with the definition, we'll know, are we talking about 15 people in the whole year or are we talking about some larger number?

I suspect it's not going to have a very significant difference, because it doesn't change the approach that people have had in the industry already. But it does clarify, and any clarity is helpful because it allows predictability.

**Mr. Jeff Yurek:** How much time do I have left?

**The Vice-Chair (Mrs. Donna H. Cansfield):** You have about two minutes.

**Mr. Jeff Yurek:** In two minutes, I would like to hear the trial lawyer's thoughts on how we could reform the mediation/arbitration to lower costs in the system so that either they can go to profit or product or to premium reduction.

**Mr. Andrew Murray:** Well, as you probably know, the current system is already a system where insurers have to pay for the mediation process. I feel bad coming here saying that the insurance companies need to pay

more money, but maybe instead of looking at the premium issue only from the perspective of lowering premiums, you might look at it from the perspective of some of those savings—we know there's been \$2 billion of savings in the claims; I don't think that can be argued. I think I heard the actuary admit that today as well. Maybe some of those savings can be directed into the mediation process, hiring more of the outsourced mediators if they're working well, as it seems in my anecdotal observation that they are, maybe shifting some of those dollars there to clear through the backlog, and then, having tackled the backlog, we would be on track, you know, to stay ahead of the wave.

And then, secondly, giving greater flexibility for those cases where the mediation is not well suited to actually resolving the issue. If the insurance company wants to settle the whole file on a lump-sum basis, it's already capable of doing that without having to have a formal mediation, and that's often what happens. They say, "Well, we don't want to pay for physiotherapy, or we don't want to pay for the income benefit, but we'll pay a lump sum amount just to close the whole file down," and I don't know that that has to occur with a FSCO mediator.

There may be people who are unrepresented, and—I said this before—the unrepresented would benefit from a mediator, and probably those who have a paralegal would benefit from the oversight of a mediator as well. I spoke to the mandatory review of paralegals to urge some caution with the extent of paralegals doing accident benefit work when some of these cases for a catastrophic claimant can be in the hundreds of thousands of dollars, probably beyond the scope of what most common citizens would think a paralegal would be capable of handling. They think of them as Small Claims Court, which is \$25,000.

I think that's two minutes.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Murray.

Mr. Singh.

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**Mr. Jagmeet Singh:** Thank you very much. Welcome. Thank you for being here.

I just want to touch on a couple of points that you mentioned: the delays in the system that you pointed to in your example that were insurer-side delays, as well as the imbalance that you demonstrated with the actual amount that was being received by one of your clients and the total of the medical rehabilitation and the claimant request payments; comparing that to the total amount of insurer-requested examinations. Basically, we had over \$10,000 that the insurer requested in terms of their examinations and only \$1,300 with respect to what the actual injured person was receiving—

**Mr. Andrew Murray:** So far, yes.

**Mr. Jagmeet Singh:** So far. How prevalent is that in your experience? I know it's only going to be colloquial—if you have more than just colloquial I invite you to say that—but how prevalent is this insurer delay,

as well as this disparity between what's actually being received by an injured person and what the insurers are charging in terms of assessments?

**Mr. Andrew Murray:** There are examples of that that I see repeated over and over, to varying degrees. Some of it, I think, quite frankly, has to do with an adjuster whose hands are tied and who is given so little discretion to do anything that any request of any kind has to be sent out for an independent review, even when common sense would dictate that it is probably not a good way of spending dollars.

I also know that adjusters are horribly overworked. I have a lot of sympathy for the adjusters. They have an enormous mound of files on their desks, and they get calls every day from lawyers, clerks and claimants and have to try to deal with it. What happens is that they don't deal with it. They can't deal with it in a timely way, and that causes a delay as well. It's an inertia that occurs just due to the volume and inadequate resources available to tackle it.

I'm not here to say that these are bad people. It's sort of a systems failure, if I can call it that, but there certainly are too many examples to be comfortable of both delay of this variety, where I said, "Let's just fail the mediation" in August and they said, "No; I'm not allowed to do it," and then in February, they said, "Oh, well, we just want to fail the mediation."

**Mr. Jagmeet Singh:** Right.

**Mr. Andrew Murray:** That's bad.

**Mr. Jagmeet Singh:** I want to turn your attention again to—my colleague from the Conservative Party brought this up—the Scarlett decision. I will make an assertion, and you tell me if you agree with it.

**Mr. Andrew Murray:** All right.

**Mr. Jagmeet Singh:** I've read it, and I agree—or I contend—that the Scarlett decision does exactly what mediation should be able to do: that some people who are put into a minor-injury guideline cap shouldn't necessarily be there. Scarlett doesn't do anything groundbreaking. It's measured, thought-out, reasoned, looking at specific characteristics of that individual in the case, assessing that individual and saying that that person, for specific reasons—and because the guidelines are such that it allows for this mediation process to contest whether or not they should be in MIG—should no longer be in the MIG category.

That's all my understanding of it is. You could provide, perhaps, your legal background and your legal assessment of it—

**Mr. Andrew Murray:** No, I fully agree: You've got it right.

**Mr. Jagmeet Singh:** There you go. If I were to suggest to that that hasn't changed anything in terms of what we already knew—there was supposed to be an opportunity for people to contest it and to get out of the MIG category; some people may do that. A majority of the people are still falling into MIG and are staying there, and some people might come out.

**Mr. Andrew Murray:** It reflects exactly what I and what those people who do my kind of work thought

would happen with this type of case, so it's not a surprise to me. We don't know where it will land ultimately, after there are more decisions.

I'll tell you, as well, that I'm hearing anecdotally—again, from our members—that there are repeated examples of people being miscast into the minor injury guideline—their insurer adopts the position that they're under the MIG—but then they've gone off into some kind of suspended animation thereafter, because it just takes so long to get that resolved. Meanwhile, they're not getting any benefits that whole time. That's a concern for us.

**Mr. Jagmeet Singh:** Okay, thank you.

Your association released some issues regarding the profitability of the industry. I'm going to take you through some of what your report generated and some of what we've contended or asserted as the NDP. Tell me if you agree with these calculations and if they match what your analysis was.

We're looking at the industry profit calculations for 2011. Based on using some GISA data, we get an industry-wide profit of \$1.44 billion. This would include investment income as well as the premium income. We expect that this profit is going to increase by about \$400 million to \$500 million more in 2012 as the caps continue to hold and as the profits continue in the direction that they're going. So we're looking at perhaps a range of close to \$2 billion—this is all after tax.

Have you done any analysis along those lines, and what is your bottom line in terms of—

**Mr. Andrew Murray:** Well, my analysis is a before-tax profit in 2011 of approximately \$2 billion—not after tax, before tax, and that's based on the General Insurance Statistical Agency data which—it will be for legislators to determine what source of data you want to rely on, but we're inspired at least by comments that appear on the GISA website. You had already mentioned one of them, but there's another one on the GISA website that says, "The main purpose for the collection of this data is to provide premium and claim information to support fair rates." It seems to be saying that the main purpose for its existence is to give the numbers to do the very analysis that we're engaged in.

So I have to ask the question, why would we not use that data? And when it's anchored to experience within the year rather than the accident history, rather than the calendar year, aren't we then anchoring it more appropriately to the post-2010 regime and not clouding it with claims that are still continuing on from prior to 2010?

**Mr. Jagmeet Singh:** That actually touches on my next question, which was to assess the preferability between the GISA data and the OSFI data. Are you familiar with the Cheng report and the KPMG report?

**Mr. Andrew Murray:** Yes. Well, let me try to explain it like this from my perspective. I think the GISA data is basically the official bastion of data, so I think this is where you're supposed to look. It'll be for someone else to determine, but the problem I have with looking at the financial data—let's say there's 100 different insur-

ance companies and there's 100, then, different sets of audited financial statements, each with its own actuarial assessment and reserving—it becomes very, very complex, and you're sort of adding together a bunch of small parts.

I would have thought we would have heard the actuaries say that actuaries live in the realm of large numbers. They want the aggregate number because if you look at one person, they might die tomorrow, and that doesn't fit with the mortality rate; or they might live to be 105. But if you look at enough people, you can predict with precision how long those people are going to live and you can transfer that same conceptual approach to the analysis of this financial data. You want all the large numbers that GISA has and you want to strip them of the assumptions and the reserving that's been done on an individual insurer-by-insurer basis.

The other thing that I think you do want to do—and this is as I understand it, so I'll defer to people who are more knowledgeable than me—but there's a very odd situation of reserving that takes place with the financial data. We heard some mention of discounted versus undiscounted numbers. Anywhere in the world, when you hear of a discounted number, you think it's lower: The price is discounted off the price by 10%; you get a 10% reduction. But in this rare world, the discounted numbers that are the preferred numbers according to the two experts who we've heard are actually higher numbers because there are add-backs. This does get complicated and esoteric, but the bottom-line takeaway point is that you shouldn't have discounted numbers that are actually higher. That's another reason to prefer the GISA data, because they don't do that.

**Mr. Jagmeet Singh:** Thank you. And looking at, then, the current profit situation and taking into consideration the general trend that the caps aren't going anywhere—the caps are now the new caps; the minor injury guideline is going to stay the way it is; it's not subject to fluctuating year by year, it is the cap—as well as the \$50,000 cap for the other folks. Given these are legislated changes—they are regulated changes; the industry can predict that they're going to continue in a general direction—given your figures and our figures, which are close, that there's \$2 billion in savings, or if you look at the profit side, based on these 2010 changes, could some of this profit be used, in your opinion, to reduce premiums in a considerable way?

**Mr. Andrew Murray:** Well, I have to say that because we called for this some months ago. We felt that there should be a reduction in the premiums, yes.

I take issue with your notion necessarily that the MIG is cast in stone and it's only going to be \$3,500 in perpetuity. I alluded to the fact that there is a mandatory review of the minor injury guideline, and given everything I'm hearing—granted it's from my side of the table—I would have to think that some sensible heads—

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**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Murray. Mr. Colle?

**Mr. Mike Colle:** Thank you. I'm not going to ask you questions about this guy GISA, but—

**Mr. Andrew Murray:** Yes.

**Mr. Mike Colle:** I want to ask: The average person says to me, "I've got 10 airbags in my car. I've got these sensors"—some people can afford them—"in my car that if I go off my lane, the car vibrates. I've got cameras in the back. I've got incredible GPS and all this stuff." Cars are much safer now, yet the accident benefit claims are going through the roof. How do you account for this: safer cars; less accidents, in fact, according to the MTO, yet we've got skyrocketing costs for accident claims?

**Mr. Andrew Murray:** I don't pretend to be able to account for it entirely, but I will hearken to the words of two of the presenters at the July round of standing committee hearings that were held in Windsor, who worked with brain injury associations. They said—and this is kind of counterintuitive and somewhat ironic—that because of the improvements in safety devices in cars—the airbags, the belts, all these other things that you've mentioned, sir—people who formerly were killed in car accidents now survive those accidents, coupled with—with our advancing medical technologies, people are saved—literally, they're saved—who would not have been saved 20 or 30 years ago.

What that means, of course—this is a very blunt statement I'm going to make, but if a person dies in the car crash, there are no future-care costs at all. If they survive but with horrific injuries, those are then some of the catastrophic claims that we see. That's only a partial explanation.

I agree that fraud has been part of the system, and I applaud the steps that have been taken to come up with the anti-fraud task force and its 38 recommendations. I had the privilege of appearing before that group, and I felt that I had a very good hearing. Our organization has publicly endorsed probably 85% or 90% of the recommendations that came forth from that group. In fact, we've urged the Liberal government to just ensure that they now get rolled out in an orderly fashion, because there should be some savings there in the system.

The third statement I'll make, or the third observation, is that—and it kind of relates to some of the earlier comments that were made. When we see accident benefits reduced and people are genuinely in need, those needs just don't disappear; they don't evaporate. We do, then, see the value of a lawsuit increased because there's no—there's only a dollar pay once, but if the accident benefit money isn't there to rehab them, then those claims, to the extent that there's an at-fault party, are then transferred into the other system—they don't just disappear—or they're absorbed by OHIP in some fashion.

**Mr. Mike Colle:** The other sort of thing that's hard to understand is that more and more money, it seems—I've dealt with it in the past, and there seems to be this whole thing about assessors assessing assessors, and medical examiners, doctors—everybody's in this assessment business and making good money assessing the assessors. In fact, I think the report from FSCO says a

176% increase in the cost of assessments, yet the assessments don't really provide any medical rehab, don't provide any medical services. From your perspective, what's really continuing to push this assessment business? Why is it still being pushed through the roof?

**Mr. Andrew Murray:** What I hear adjusters say to me routinely is, "I'm not a doctor. It's not my place to make the medical call on whether they should or they should not have this treatment"—although historically, 20 years ago, they would make that call. So there's been a culture change within the insurers, and I don't know if it's sort of a top-down culture change or if it's just that with so many different accident benefit systems, it has now become easier to defer to somebody else to make that decision.

But I think that a lot of this could be resolved by adjusters being given more authority just to make their own decision.

**Mr. Mike Colle:** To make the call.

**Mr. Andrew Murray:** To make the call.

**Mr. Mike Colle:** Yes, whereas now—

**Mr. Andrew Murray:** And I say that this problem of getting an assessment and then denying the claim has only been augmented by these 414-day delays, because then it's off that person's—the overworked person—it's now off their desk; they denied it. It goes off into the ether, and even when it resurfaces in over a year, it's somebody else who has to deal with it, not them. Intentionally or not—I don't think these people are being malicious; it's just the way the system has unfolded—that's the consequence of that environment. It's not helpful.

**Mr. Mike Colle:** The other point that you made, I'd like you to just explain because, as you said, this committee keeps focused on the magic 15% without taking into account the necessity to increase protection for drivers. We're going to get the decrease, yet all of a sudden there are all kinds of cuts in benefits, accident benefits, right through the spectrum, for drivers. Can you expand on that protection aspect of it?

**Mr. Andrew Murray:** I don't think you had the benefit—some people have now heard this talk three times; I apologize. You didn't have the benefit of my discussion of the whole system being considered a three-legged stool, with premiums, protection and profits. You have to keep them all in balance. If your premium leg is too long, it's an unbalanced stool. If you've got too-generous protection, it's unbalanced. The whole thing is moderated perhaps by a fourth leg, which is predictability. If you change it every year, it's so unpredictable that there's excessive cost in the system, nobody can price it, and the consumers don't know what they're getting.

My urge for caution is that—although our organization has called for a reduction in the premiums, it can't be the sole focus of what any of us need to do. We must have a long-term view, not a near-term view, on this issue. Auto insurance has proven to be too thorny and prickly over the last 20 years. It has taught us all a lesson

not just to solve today's problem but to try to solve the problem of five and 10 years down the road.

I think we know that we need to tweak the system in a way that's going to cost more money, whether it's ramping up the mediations to clear the backlog, or whether it's improving the minor injury guideline level of compensation because \$3,500 is not really enough for many people to be back at work. We want them back at work because then they're paying taxes. Then they're able to look after their children. There are benefits to society to having these people rehabbed.

I think that's my point that I'm making: that we have to look at this three-legged stool and think to ourselves, "Is it balanced? Is it fair?" We've been on record for a long time saying that part of that means insurance companies have to make appropriate profit.

**Mr. Mike Colle:** So do you think we can reach this magic 15% reduction in premiums and keep all those protections in mind at the same time and fix the arbitration/mediation system and all these other aspects of accident benefit claims within 12 months, as we're being asked to do?

**Mr. Andrew Murray:** I'd be in a lot better position to comfortably say yes if I had the independent analysis that we've urged because I don't feel that I have data that I can work with in a reasonable way. But I will also add this: If there are as much savings with anti-fraud as we've been told—\$1.6 billion a year, and we asked for those numbers because it seemed rather opaque—and we're now marching on our way to closing that loophole, then, yes, I think we can achieve those targets. I think it's within the realm for us to dream, at least.

**Mr. Mike Colle:** Do you have a question?

**Mr. Bas Balkissoon:** My question is probably in the same direction. I hear you say a lot of things we need to improve in the system. Would you prefer that we concentrate on those things and instead of a 15% reduction in 12 months, we look at a reasonable reduction but, along with that, do some of the things that the task force recommended, do some of the other things that you recommended? Should we look at a whole basket of things?

**Mr. Andrew Murray:** I think, given everything I've said today and over my past two appearances, that I would have to answer in the affirmative. Yes, we want a holistic approach to this. We don't want knee-jerk solutions. We don't want crisis management. That involves looking at the three pillars of the product.

**Mr. Bas Balkissoon:** My last question would be: If the government was to proceed based on the resolution that has been passed, do you anticipate that it will be tougher for folks that have had an accident or had an injury claim to get insurance in the future?

**Mr. Andrew Murray:** I don't know that. I don't have the day-to-day experience to be able to figure that out.

I do know, and I'll just mention this because it's something that people might not be aware of, that if you don't have insurance, your right to sue, even if you're not at fault, is also taken away. Aside from penalties in

provincial offences court, the \$5,000 fine, your right to sue is taken away. I do see people from time to time not at fault—it could be a drunk driver that went through a stop sign and hit them—but if they don't have insurance, then they're not going anywhere with that claim.

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**Mr. Bas Balkissoon:** Thank you very much.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Murray, for your presentation.

**Mr. Andrew Murray:** Thank you.

#### CANADIAN AUTOMOBILE ASSOCIATION

**The Vice-Chair (Mrs. Donna H. Cansfield):** Our next presenters are the Canadian Automobile Association. Welcome to the committee. You have 10 minutes for your presentation. It was suggested, and I will—so I don't surprise everyone—give you a heads-up at a minute. Mr. Singh, you'll take the first rotation. Thank you, gentlemen. Please introduce yourselves.

**Mr. Elliott Silverstein:** Thank you and good afternoon, Madam Chair, and members of the Standing Committee on General Government. My name is Elliott Silverstein, and I'm manager of government relations with CAA South Central Ontario. With me here today is Matthew Turack, vice-president, insurance, with CAA.

The Canadian Automobile Association is a national, not-for-profit auto club, one of Canada's largest consumer-based organizations and has been advocating on behalf of members since 1903. Today's Canadian Automobile Association serves 5.8 million members through nine clubs across Canada. CAA South Central Ontario is the largest club in the federation, serving over 1.9 million members as far west as Windsor, north to Sault Ste. Marie and east to Kingston. Provincially, the three Ontario clubs serve over 2.2 million members.

Advocacy is the origin of CAA's existence, from lobbying for the construction of the Trans-Canada Highway, the installation of road signs across the province, our involvement in the launch of the RIDE program, introducing seat belts in all vehicles and advocating for distracted driver legislation, all of which are designed to make roads safer for all users.

Today, CAA continues to advocate on behalf of its members and the motoring public at both the provincial and municipal levels of government through a variety of programs, including the Watch for Bikes program to School Safety Patrol and our Worst Roads.

CAA also works with government ministries like the Ministry of Transportation and key stakeholders like police organizations to be at the leading edge and to promote numerous safety initiatives, including winter driving safety and distracted driving, before the conversations become commonplace among the general public.

Along with our advocacy and our roadside assistance services that are synonymous with our brand, CAA also has an insurance division. Today, I am pleased to be speaking before this committee on behalf of CAA, highlighting a unique perspective to answer the questions

that the standing committee has proposed—specifically, looking at practices and trends, and developing recommendations on how to make auto insurance rates more affordable.

During these hearings, there are a multitude of organizations speaking on behalf of various sectors, and CAA is uniquely positioned to talk about consumers, along with the roadside assistance business—two critical elements of this discussion.

There is little argument that Ontarians are paying too much for auto insurance, and solutions are needed. We recognize changes to the existing system are both complex and multi-faceted. Ontario is also regarded year after year as having some if not the safest roads in North America.

Before delving into roadside assistance and some of the challenges with towing as part of this discussion, I'd like to take a couple of moments to discuss CAA's current and upcoming effort in the insurance base. CAA Insurance has offered its policyholders a 5% discount if they install and use winter tires during the winter months. This is an item that only a handful of insurance companies offer, and we believe it encourages more responsible driving and safer roads.

CAA's insurance division believes that technology can play a significant role in combatting insurance rates while also helping to make Ontario roads even safer. Through advanced technology, such as the telematics device, drivers will be able to better understand their driving habits, using the device and its data to assess where they can correct their unsafe behaviours and ultimately become a better driver. CAA's focus on telematics differs from others, as we believe that there is a tremendous opportunity to help improve safety on our roads, educate drivers and proactively assess the condition of vehicles.

Telematics may be a relatively new phenomenon in Canada, but it has been used in Europe for quite some time. Telematics can also be perceived as a positive step. For drivers who drive safe, are collision-free or don't use their insurance, it could help them see their habits and make improvements. For those who have challenges with their driving habits, it has the opportunity to show the potential for more positive road-user safety and vehicle safety as well.

In recent months, CAA has conducted a pilot of a telematics product and surveyed its participants with an overwhelmingly positive response. The results showed that of those surveyed, 43% would consider enrolling in a telematics-driven product if they received a discount on their auto insurance. Also important to highlight is that 11% of those surveyed would enrol in a telematics program without any incentives or discounts whatsoever.

There have been many conversations over the years about regulating the tow truck industry. Over the years, private members' bills have come forward attempting to regulate the industry. Most recently, the Financial Services Commission of Ontario recommended as part of its Auto Insurance Anti-Fraud Task Force that the government should implement province-wide licensing for

the towing industry to be administered by an administrative authority. The goal of FSCO was to address fraud, alongside road safety and consumer protection issues. CAA is supportive of FSCO's recommendation and has been meeting with key stakeholders on this matter in recent months.

From an auto insurance perspective, regulation of the industry will not only help further the industry's image; it will help prevent the tow truck industry from being used by other industries where fraud is already prevalent. Through regulation, the industry would also include a code of conduct, safety standards, training and proper oversight, not to mention consumer protection as well.

Most collisions will require a tow truck, and if the towing industry is enhanced through an administrative authority, it will help minimize the potential for towing to be a source of fraud, which can then impact auto insurance rates. The introduction of an administrative authority will also help ensure consumer protection, as current municipal bylaws and processes vary by municipality, sometimes simply by just crossing the street. Having a set of consistent standards across the province, coupled with safety and a requirement for electronic commerce transactions, will help protect customers and consumers in a time when they are vulnerable and eager to get out of danger, and help establish paper trails in cases where they don't exist right now.

In short, Ontario has consistently been recognized as having some of the safest roads in North America. There are opportunities to help keep our roads safe and prevent collisions through education and awareness of existing driving habits. There's also a significant opportunity to advance and enhance the towing industry, not only for consumer protection but for operators as well. CAA has long been committed to safety on our roads and we believe that these items discussed today will help, in part, to address some of the challenges we face in this area. Thank you.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Silverstein. Mr. Singh?

**Mr. Jagmeet Singh:** Thank you very much. I just want to turn your attention first to your insurance division. If you could just describe the model of how your particular insurance division works compared to other industries. You could perhaps, to provide more clarity, use the example of a co-operative like the Guelph Co-operators and a regular, private, for-profit organization.

**Mr. Elliott Silverstein:** I'm going to turn that over to Matthew to answer that question.

**Mr. Matthew Turack:** The insurance division is a for-profit part of our organization. It largely serves its members, the CAA group of members. We have a member discount associated with such, so we are looked at as a group provider specializing in our membership base but not solely our membership. We have a lot of non-members within our insurance company.

Our insurance division is a direct writer, so we directly sell to consumers through multiple channels. We have a retail channel in terms of insurance agents located in

municipalities throughout Ontario and the Atlantic provinces. We also have a call centre channel, so direct call-in, and we have online quotation.

**Mr. Jagmeet Singh:** Thank you very much.

Switching channels now, you indicated the safety of the roads in Ontario. The Ontario Safety League presented at this committee in its previous sittings and talked about the safety of Ontario roads as well. Could you provide some statistical evidence or data—whatever your findings are—that support this assertion or this idea that the roads here in Ontario are quite safe?

**Mr. Elliott Silverstein:** Certainly. In response to that, first and foremost, the Ontario Road Safety Annual Reports, the ORSARs, are released each year, and certainly the most recent reports that came out a few months ago continue to highlight that Ontario's roads are quite safe. That said, there is certainly work to do in various parts of the province. CAA has remained committed to working with the government and with various stakeholders to try and assess areas where roads need to be improved. That's part of our Worst Roads program we do every year. While it's not a perfect fit, we think that in comparison to many other jurisdictions, Ontario's roads are quite safe.

**Mr. Jagmeet Singh:** One of the mandates of this committee is to talk about how we can reduce auto insurance rates or make them more affordable. Among other things, we want to learn about how we can make the product something that takes care of the citizens and residents of Ontario, and a product that is predictable as well so that we can have some sense of where the product is headed and people have something to rely on.

What, if any, recommendations do you have with respect to reducing premiums or making auto insurance more affordable?

**Mr. Elliott Silverstein:** Well, I think part of what was mentioned in the original presentation was that certainly there are some opportunities going forward: as mentioned with telematics, the opportunity to really assess and understand the habits of drivers, so if there's a good driver out there, recognizing the fact that they are doing that, that they are driving in a safe manner, that they're not speeding and so forth. Having that type of information provides the opportunity to really provide that balance.

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At the same time, we talk about some of the issues around fraud, as mentioned, and our call for the regulation of the towing industry, which is a significant piece for the CAA. Having that resolved will only help down the road as well. You can't necessarily estimate how much it's going to have an impact, but being able to change the habits in those areas is certainly significant and revolutionary in how we look at the way the system is right now.

**Mr. Jagmeet Singh:** I'm going to ask you to try, because I think it's very important that—there's a two-part concern that I have. One is that I assert, and my position is, that there has been significant savings that the

insurance industry is enjoying now because of changes to the regulations in 2010. Those changes have reduced the caps and created an alternative cap, which is the MIG, or the minor injury guideline. Once, people were able to access up to \$100,000 and now that's reduced to \$50,000 and further reduced to \$3,500. I think the IBC's figures or the data is that about 80% of people are being put into the MIG category, which is that \$3,500 category. This has significantly—I think I'd ask you to respond to this—reduced the costs that insurance companies incur year by year. It has also significantly reduced, by nature of having these caps in place, both fraudulent activity as well as legitimately injured people who are not getting the same coverage, so both of those categories of people are receiving less in terms of coverage.

Given that those significant reductions have occurred, my assertions are that there are some savings available now and the premiums should come down, but moving forward with such recommendations with the anti-fraud task force, how can we tie those recommendations into some actual savings? If we work on some regulation of the tow truck industry, as recommended by the task force, how will that tie into a savings for consumers? If we do do some steps to further reduce—I think there are already savings in the system that need to be passed on to drivers, but if there are further implementations, how do we ensure that they're passed on to drivers—for example, a tow truck, and by how much?

**Mr. Elliott Silverstein:** Part of the challenge right now—and I appreciate your question—with respect to the towing industry is that in some jurisdictions there is no price set, no cap, on the amount that a tow truck can charge at the scene of an accident. For example, in the city of Toronto, it's \$192. When somebody has an accident, they know exactly what they're going to be paying when they go to the collision reporting centre. In other jurisdictions, there's no set rate. Therefore, based on the time of day, based on the condition of the weather, based on the day of the week, somebody can charge as little or as much as they want, which makes it cumbersome for the individual, which ultimately then pushes it onto the insurance company. When you see a variation, sometimes a wide variation between rates in jurisdictions sometimes, as I said, by crossing the street—some municipalities have it; some don't—that is a challenge, because when you think about that, the same service is provided and on one side of the road it can be \$192 and on the other side it could be \$1,000. That's a disconnect, because you're getting the exact same service, depending on where the car ended up.

**Mr. Matthew Turack:** Just to add to that, we have seen an impact since the reforms in 2010 on the accident benefits side of the business. As well, as believed and stated back in 2010, we've also seen a shift, and continue to reserve as such, to the bodily injury side, from accident benefits claims to bodily injury claims. Severity continues to be a concern and a watch of ours, as well as, when we file our rates, we include three years' worth of data within that filing. We look for a trend in terms of

how severity and frequency are changing. That trend, while on the accident benefits it's starting to be very positive, bodily injury is still a concern of ours. So we're not yet, as an organization, as an industry—I'm going to speak on behalf of CAA, not the industry stats as a whole. We're following it very carefully. Every time we do file, we continue to take the indication and we continue to take a conservative approach towards that indication in terms of what we can reduce rates as. We look for the trend over time.

One of the differences you mentioned is the difference between GISA and OSFI. OSFI is financial information; GISA is the General Insurance Statistical Agency. Its case-reserving information does not include your incurred-but-not-yet-reported reserves, which are set by the actuaries. There's a difference between calendar-year experience or financial experience and accident-year-loss experience. "Accident year" includes things that are going to develop over time. Our actuaries help us set what that loss experience is going to look like. Over time and over loss experience in history, if the trend continues to be positive, we bring the loss provisions down, and therefore we have continued savings.

But the loss provisions are also part of our financial input. It is part of what keeps insurance companies solvent.

**Mr. Jagmeet Singh:** I actually didn't ask about GISA or OSFI this time. Thank you for that information, anyway.

*Interjection.*

**Mr. Jagmeet Singh:** Good on you.

The accident benefit trend very clearly has gone down. So the accident benefit, obviously, has gone down.

Now, what I assert and what I'm going to put to you is that there may have been a slight increase on the bodily injury side, but in terms of what I see—and it's not a significant, sharp increase; there might be a gradual increase but it's nothing sharp. If you compare the sharp—I think it can only be described that way—decrease on the accident benefit side, there isn't a mirror sharp increase on the bodily injury side or the tort side, the lawsuit side. I think you would agree with that.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Mr. Singh, you have one minute left.

**Mr. Jagmeet Singh:** Yes, thank you.

**Mr. Matthew Turack:** I would agree that the sharpness of the decline and the increase are not the same, but the severity of both accident benefits claims and bodily injury claims are also two distinct numbers from—

**Mr. Jagmeet Singh:** That's right.

**Mr. Matthew Turack:** Bodily injury claim severity, on its own—there are a lot greater amounts, so you don't need the same sharpness of the frequency change to have the same offsetting impact.

**Mr. Jagmeet Singh:** That's a good point, but in terms of the trend, it's not significant at this point, in terms of the tort side yet—

**Mr. Matthew Turack:** I'm not able to answer that. We still need to continue to watch.

**Mr. Jagmeet Singh:** Fair enough. Do you have any questions?

**Ms. Teresa J. Armstrong:** I have a quick question. You guys mentioned winter tires and you mentioned a discount—try to help consumers with their affordability issue in insurance. What's your average—it's 5% on the total premium?

**Mr. Elliott Silverstein:** Yes.

**Ms. Teresa J. Armstrong:** Okay. So how do you monitor a consumer getting their winter tires? Do you ask for receipts? How do they get that discount?

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. You'll have to save that answer for another time.

**Mr. Colle?**

**Mr. Mike Colle:** Just briefly, are you in support of the call for a—can you come up with a 15% reduction in 12 months and not reduce any of your coverage in accident benefits etc.?

**Mr. Elliott Silverstein:** To date, we have not investigated whether the 15% can be done in 12 months. Certainly, I think from our perspective we came in more so today to talk about some of the things that are specific to CAA's area in terms of towing and trying to push that particular item, as it's an area of interest for us, as well as highlighting some of the other aspects to do with safety, so—

**Mr. Mike Colle:** Yes, yes, but you've got an insurance company too.

**Mr. Elliott Silverstein:** Yes.

**Mr. Mike Colle:** So what does your insurance arm say about the 15%? How are you going to come up with the 15% reduction?

**Mr. Matthew Turack:** It's our position that we do believe rates are high and we do want to see them come down, but we do not believe that a broad-stroke approach to a 15% rate reduction would be the right way of going about it. We think that each company needs to file independently. From a specific CAA insurance company, if we took a 15% rate reduction in a one-year period of time, it would put us into a negative underwriting profit position and it would mean that we would have very, very small, if any, returns from the insurance company.

**Mr. Mike Colle:** On the towing side, I know Rocky, the autobody guy, was talking about before—what he came up with—he's really concerned about the tow truck industries that are out there and the characters that are in it. There are some good people but there are some pretty tough people in that business. What he said to me was, "You know, it would be a good idea if you got the CAA to administer the government's towing." Either the CAA could be doing some towing, which you do, in response—

**Mr. Bas Balkissoon:** Dispatching.

**Mr. Mike Colle:** Dispatching. You also act as the government's arm for coordinating a very difficult job—the tow truck industry. What do you think of the CAA maybe taking on a greater role of protecting consumers and doing some coordinating of the towers?

**Mr. Elliott Silverstein:** Certainly, I think that CAA plays a pivotal role. It has and I think it continues to play that pivotal role in taking a leadership role in this particular area. We represent the consumers. We have a roadside assistance service. I think that we definitely want to work through some of our efforts around “slow down, move over,” trying to ensure safety standards for some of the drivers on the side of the road.

I think that there’s an opportunity here, not just for CAA, but for working with various stakeholders, including the police, because we can’t forget them in this whole discussion. If we’re talking about regulating the industry, it’s important that a combination of people are at the table—the police, the insurance bureau, a number of stakeholders—to make sure that all the discussions are taking place before we put legislation in place. CAA has definitely been having conversations with various groups right now to try to base it off of the FSCO conversation. We are happy to work with government as much as possible to really try to solve these challenges, bring it forward and help make the roads safer for not only the drivers, but to protect the consumers as well.

1700

**Mr. Mike Colle:** And the other thing about towing is—the problem is we deal with Ontario-wide issues. To my knowledge, the tow truck challenges aren’t as great in, let’s say, Ottawa, Thunder Bay, Kingston or Cornwall as they are in the GTA. Has that been CAA’s experience, or do you know—

**Mr. Elliott Silverstein:** Well, right now, we’re seeing a lot of the discussions at the municipal level happening within the GTA. That’s not to say—there are good tow truck drivers across the province and there are challenging ones across the province as well. I think you can’t necessarily paint it with a broad stroke right there.

But definitely in terms of the challenges and where there’s been some pushback, it has certainly been in the 416 and 905.

**Mr. Mike Colle:** Yes. The final question I have is, in terms of the towing industry, do you hire your own independent tow trucks or are they under contract? I know when people make the emergency calls—and by the way, CAA is excellent; I’ve been a CAA member for years—they come and they’re great. But in terms of towing, how do you operate that, for a tow truck to come to an accident scene?

**Mr. Elliott Silverstein:** If there’s a situation—you’re talking specifically in accidents here? I just want to make sure—

**Mr. Mike Colle:** Yes, an accident scene—vehicle damage.

**Mr. Elliott Silverstein:** Well, if there’s a vehicle breakdown, then certainly you call CAA and a call is dispatched. When there’s an accident that takes place, a member can call CAA, but again, it’s also at the discretion of the police. If the police are looking to clear the scene, there could be situations where an assigned police tow truck will pick up the vehicle before CAA arrives. Depending on the time of day and the weather condi-

tions, it could be 15 minutes; it could be 45 minutes. So certainly if there is a risk to safety or a need to clear the roads, the police ultimately have the final say in that.

**Mr. Mike Colle:** My colleague has a question.

**Mr. Bas Balkissoon:** Just to carry on on that one, it used to be a major problem on highways especially, where the police would have the vehicles removed. If it was your CAA member who was removed, how much of a difference do you see in the towing cost from a private operator to the CAA operator who hasn’t been able to do the job, and how does a member recover that additional cost?

**Mr. Elliott Silverstein:** From a cost perspective, the only real answer I can give you there is that it really depends on the geography. Again, as I mentioned earlier, if you have an accident in the city of Toronto and it’s on a highway, you know it’s \$192. If you have it in other parts of the GTA, it could be \$250; it could be whatever the estimate that’s provided to you.

**Mr. Bas Balkissoon:** But my understanding is that city rates don’t apply on the 400-series highways.

**Mr. Elliott Silverstein:** The city of Toronto has a city rate and a highway rate. So if you’re in the 416 proper, there are two different rates, I think a variation of about \$10 to \$20.

**Mr. Bas Balkissoon:** But only if it’s a city of Toronto licensed tow truck.

**Mr. Elliott Silverstein:** I am not sure.

**Mr. Bas Balkissoon:** The chasers that exist on the highway, they don’t have to carry a city licence.

**Mr. Matthew Turack:** What I can add to that is what we find from the cost of taking individuals to a collision reporting centre, from a CAA perspective, the cost would be very controlled because it’s based on the programs that we have in place; from an independent, outside-of-CAA or appointed police officer tow truck, we do find at times that some of the costs can be very high and extreme.

**Mr. Bas Balkissoon:** I wasn’t aware of that.

You tend to mention telematics quite a bit. When you did your trial, who collected the data?

**Mr. Matthew Turack:** We collected the data on it.

**Mr. Bas Balkissoon:** The CAA did. And your members voluntarily joined the program?

**Mr. Matthew Turack:** With a very robust consent form.

**Mr. Bas Balkissoon:** Okay. They would have been new members who are in your insurance program or just your general membership?

**Mr. Matthew Turack:** We had a mix. We specifically picked a variety of individuals from our membership base who volunteered to participate, some of whom are insured, some of whom are just members.

**Mr. Bas Balkissoon:** Did you have them sign an exclusive that the data belongs to you/it belongs to them?

**Mr. Matthew Turack:** We had them sign a consent form for us to collect the data. If they wish to have the data back and maintain the data themselves, we can provide that for them.

**Mr. Bas Balkissoon:** Because we had a presenter earlier on saying that it's a good system, probably, but without knowing who owns the data and what it will be used for in future years, we should be very cautious. Would you agree?

**Mr. Matthew Turack:** Yes.

**Mr. Bas Balkissoon:** Okay. Thank you.

**The Vice-Chair (Mrs. Donna H. Cansfield):** No further questions?

**Mr. Bas Balkissoon:** No.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you. Mr. Yurek.

**Mr. Jeff Yurek:** I just want to thank CAA for coming in. They rescued my family on the 402 about five years ago—I blew a tire in my Avalanche—and it was great. Thank you very much. I didn't get a chance to personally thank you guys.

The anti-fraud task force that has been finished since last November talks about tow truck regulation, as you mentioned. I take it that you're supportive of it, but can you elaborate on some of the key points of how that's going to help cut the cost down and lower our premiums?

**Mr. Elliott Silverstein:** When you have a collision, most collisions will require a tow truck, so if there are issues that are coming out in those particular areas—if there's a way to regulate the industry to keep standards to ensure that everything is done top-notch from top to bottom in that area, it could help us address some of the challenges we face in other aspects of the industry.

The towing file is certainly one where there are a lot of ethical and a lot of honest people in the industry. There are challenging ones as well. Again, you see the challenging ones and you want to try to resolve them because, unfortunately, those are the horror stories you hear down the road, where somebody is charged \$1,000 or \$2,000 to get a car towed, get their car back and so forth. Certainly, we can resolve those issues. While it's incremental in terms of cost, micro numbers versus macro, every little bit helps.

**Mr. Jeff Yurek:** Just a quick plug: Garfield Dunlop brought in a bill for tow truck operator safety. I'm hoping that when you guys are talking to the government in implementing the anti-fraud task force, you can also implement some of those safety recommendations. I think that's key for the tow truck drivers I've talked to in my riding.

**Mr. Elliott Silverstein:** Absolutely. We partnered with MPP Dunlop on that initiative—actually, on two occasions. In the most recent one, we had over 7,000 of our members sign the petition. Unfortunately, prorogation prevented it from getting to second reading. However, CAA is committed to working with all three parties to ensure the safety of tow truck operators and consumers on the sides of the road when they're in a vehicle breakdown.

**Mr. Jeff Yurek:** Okay, thanks.

Telematics: Usage-based insurance is what I always call it, but “telematics” sounds interesting. Can you explain how you're going to bring that to the market as a

voluntary option for people and what barriers you're facing in getting that product to the market?

**Mr. Elliott Silverstein:** Matthew, do you want to take that one?

**Mr. Matthew Turack:** Sure. We met with the Financial Services Commission of Ontario about a month ago just to review options for rolling the program out. The reason we call it telematics is because, for us at CAA, it is a bigger approach than just use-based insurance. It is about safety; it is about the ability to learn behaviours and change behaviours and get proactive alerts on your vehicle to make sure that we're proactive in preventing breakdowns, whether it's a battery, tire, oil, whatever it may be. So for us, it's a bigger approach, about providing consumers and our members with more safety options as well as environmentally friendly products. Being able to monitor carbon emissions and reduce your carbon footprint is very important to us.

From an insurance perspective, what we're looking at is an enrolment into the program, so a discount for enrolment. We are looking at discounts for verified mileage, kilometres driven, so we can verify what you're telling us is accurate and give you better rates when you drive less, or charge you accurately if you drive more. Looking at speed and time of day, we have some statistics that tell probabilities of loss based on time of day. We are presenting to FSCO in the near future some of our rating criteria based on that. We want to be able to give drivers better rates, and it all comes with discounts, not surcharges, based on driving during those better times of the day or driving with better behaviours.

**Mr. Jeff Yurek:** Why haven't you brought this on the market yet? What's stopping you?

**Mr. Matthew Turack:** Well, (1) we won't roll out a piece of technology until we're logically ready; (2) we need to make sure that consent piece, as discussed, is very robust, and we understand the ownership of the data and the privacy concerns around the storing of the data; and (3) the technology is not cheap. It does require an investment from the insurance company. We are not allowed to charge for it from an insurance perspective, from a member perspective. It is a very expensive piece of technology. It has come down significantly over the last few years, but it does require an investment from an organization. As a member-facing company, we believe that is member value. We believe that's something our company needs to do moving forward. Our board has yet to decide, but we're looking forward to taking it out to the consumer base and making that investment for the industry.

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**Mr. Jeff Yurek:** How much time do I have?

**The Vice-Chair (Mrs. Donna H. Cansfield):** You have five minutes.

**Mr. Jeff Yurek:** Oh, I've got lots of time.

Now, just going to the rate-filing system, I've heard that there's quite a bit of bureaucracy involved, and FSCO, if you go by their different months, have said it can take six months or a year, if you don't get your data

in to their liking, to change a rate. Can you tell me how much cost is involved with your company with comparing the actual filing and getting actually a rate change?

**Mr. Matthew Turack:** Sure. We have a team of just under six actuaries—some associates, some fully licensed actuaries. We do it all internally; we don't use consultants to do it. So the team of six works on all the provinces that we do write within. A filing generally takes us about three months to prepare. We usually find the Financial Services Commission of Ontario turns it around in about three months to four months, and it's implemented around six months, or two months after that point.

I don't find the bureaucracy to be what I'm hearing from the industry. I think it's a very prudent approach to making sure you justify and provide evidence to back your filings and that it's not reactionary data. We are constantly challenged by the Financial Services Commission to take the appropriate rate indication as indicated by our actuaries and as allowed based on the desired and benchmark returns as set out by the industry and internally.

So I find that the justification of every rating element is actually a very prudent process, a diligent process. It requires the level of science that comes along with an actuary to sign off on, and, I would say, protects our consumers from an ongoing onslaught of marketing and aggressive sales approaches.

**Mr. Jeff Yurek:** Protects the customer?

**Mr. Matthew Turack:** The customer, yes.

**Mr. Jeff Yurek:** So if there wasn't a—I'll just go to my next question. The file-and-use system that's used in other areas of New Brunswick and other parts of the States: What are your thoughts on that, then?

**Mr. Matthew Turack:** I would say you would have various companies take some aggressive approaches to find or reduce or change rates based on their own internal preferences. I think from a broad-standing approach from a consumer basis that would create a lot of competition. It would also drive some insurance companies out of the market.

**Mr. Jeff Yurek:** Would it also bring some insurance companies into the market that are staying out now, like Progressive?

**Mr. Matthew Turack:** Possibly. From what I understand, Progressive's issue with being in the market was not necessarily the rate-filing legislative approach. It was more some of the product and results that we see from some of the provinces. They were really not attracted to the Ontario product—

**Mr. Jeff Yurek:** Why is that? Too rich or too—

**Mr. Matthew Turack:** Because of what the return is and because of the legislative regulatory constraints on the product and the outcome in terms of the limits and the process.

**Mr. Jeff Yurek:** So their ability to make a profit and regulation is keeping them out.

**Mr. Matthew Turack:** Yes. Both, I would say. It wasn't within their appetite, but that's their own—that's my understanding of their perspective on it.

**Mr. Jeff Yurek:** Okay. Thank you.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. Thank you, gentlemen. Enjoy your day.

## ONTARIO REHAB ALLIANCE

**The Vice-Chair (Mrs. Donna H. Cansfield):** Our next presenters are the Ontario Rehab Alliance. It will be the Liberals who will have the leadoff, Mr. Balkissoon.

**Mr. Nick Gurevich:** Good afternoon, everyone.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Good afternoon. Thank you for your patience. It's been a long afternoon. I'm delighted to welcome you. Please would you give your names for the Clerk, and then you have 10 minutes for your presentations. I'll give you a heads-up for one minute, and then we'll start rotation with the Liberals.

**Ms. Laurie Davis:** I'm Laurie Davis, the executive director of the Ontario Rehab Alliance. With me are three of our board members, and this is our second time presenting to the standing committee. We were here last year, and it's our pleasure to be here again.

Beside me is Patricia Howell—all three of our board members are volunteer board members—a clinician. Justine Hamilton, our vice-chair, is to her right. And on my extreme right is Nick Gurevich, our chair. With that, I'll let Nick and Justine make the formal presentation.

**Mr. Nick Gurevich:** Thank you. The alliance is an association representing 90 companies and over 3,500 health care providers, including physicians, neuropsychologists, physiotherapists, occupational therapists, speech language pathologists and many more. It is these professionals who are the primary providers of health care and rehabilitation services to Ontarians who are injured in automobile accidents.

The alliance is the largest multidisciplinary organization and the only one of its kind which deals exclusively within the auto insurance sector.

While the topic of auto insurance may appear daunting, involving complex regulations and multiple inter-related stakeholders, we would prefer to dedicate this presentation to commenting on it from a high level, examining very fundamental issues.

At the heart of the matter are three factors which must be in equilibrium in order for the system to work properly over the long run:

—privately held, for-profit insurance companies must make a reasonable return on their investment over time, taking into account that cyclical plays a role in insurer profitability;

—Ontario's drivers must pay a reasonable premium; and

—victims and survivors of automobile crashes must have barrier-free access to a reasonable benefit package.

Currently, this fragile ecosystem is in a state of imbalance. In 2010, the Liberal government implemented wide-sweeping reforms in an effort to boost the profitability of insurers. The crux of the reform was a 70% reduction in the benefit structure available to accident

victims. Despite self-serving insurance-industry-funded reports issued last week to the contrary, the General Insurance Statistical Agency reports that, only one year following the 2010 reforms, the insurance industry realized a fantastic increase in profitability of over \$2 billion. During the same period, the average cost per accident benefit claim plummeted from \$595 to \$292 per vehicle and is still falling, as the full impact of the reform begins to materialize.

Therefore, while insurers have been declaring near-record profits, consumers have been left to pay the highest premiums in Canada while receiving the second-lowest coverage in the country. It's easy to see that the system is broken.

We agree that premiums need to be lower, but this would still leave the system in a state of imbalance if the problems associated with the protection of victims and access to benefits persist. This is a significant problem because it affects 65,000 Ontarians every year. Resolution of issues surrounding protection of victims is paramount because it is the heart and soul behind the need for the insurance product to begin with, and the reason it is mandated. After all, if coverage is inadequate, why should it be required by law?

In keeping with a high-level approach, we would like to note the following current failures within the system.

The quantum of benefits seems to be too low. At \$3,500, our current system offers the lowest level of protection in Canada to about 80% of all victims who, since the 2010 reforms, are deemed to have sustained a minor injury. What's more, as recently highlighted in an arbitration decision, once a victim is relegated to the minor injury guideline, it is virtually impossible to escape it, despite clear need for additional funding for rehabilitation.

Non-catastrophically but seriously injured victims are depleting their available funds of \$50,000 at an alarming rate. Anecdotal reports, which we are currently looking to quantify through a province-wide health care provider survey, indicate that victims who sustain serious non-catastrophic injuries are running out of funds in the middle of their rehabilitation, leaving them unable to resume normal lives by returning to work or school or by functioning in the community.

Rehabilitation does not need to be, nor is it intended to be, indefinite. However, it does need to proceed until a plateau is reached. With the significantly reduced level of auto insurance funding and Ontario's overtaxed public system, which offers far less rehabilitation services than other provinces, those who do not reach a plateau in their rehabilitation will go on living with high levels of disability, relying on social services. It is common to see families torn apart, failed marriages, and the onset of lifelong disability and depression.

The only bright spot in an otherwise sad state of affairs, and the only reason that our coverage is the second-worst in Canada rather than the absolute worst, is the existence of the catastrophic injury designation, which accommodates only 600 victims per year. How-

ever, even this category is under a microscope, based on a flawed expert panel report commissioned by FSCO. The acceptance of FSCO's recommendations would have the effect of increasing the bar for the catastrophic designation and likely cut the number of eligible victims in half.

The barriers to access benefits are too high. As part of the 2010 reform, the government allowed insurers to have discretion over whether to use insurer examinations, which are consultants working for insurance companies. The authors of the previous regulation highlighted the fact that adjusters do not have medical training and are ill-equipped to make health-care-related determinations; hence the requirement for a mandatory opinion of another health care provider as a form of check and balance.

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The 2010 reform waived this mandatory measure and instead put all of the decision-making power for victims' treatment in the hands of adjusters. Without checks and balances in the system, it is of little surprise that treatment denial rates have skyrocketed from 11% before the reform to 42% after the reform, as determined by a sector survey conducted by our organization.

Those few treatment requests that are sent for insurer examinations are handled by assessors who in many instances have been described by judges and arbitrators as biased or unqualified. It is no surprise, then, that at one point over 30,000 files were in queue for dispute resolution. This clearly demonstrates the level of dissatisfaction that victims have with the handling of their claims.

**Ms. Justine Hamilton:** I think you'll see that our recommendations flow from that. We want to try and restore the balance between premiums, profitability and protection, and want to make sure that we don't lose out on the protection side if we're looking at making alterations to anything else.

What we want to try and do is look at what costs can be removed from the system without further impacting the benefits available to people who are seriously injured in accidents. One of the big things we've heard about today is about all the disputes and complexity in the system. Some of the disputes come from the minor injury guideline being insufficient and there being no way to get out of it. We don't need any more people with back surgery and screws put in their backs who are being put into the minor injury guideline and having to wait 400 days for mediation.

The non-catastrophic level of funding needs to be reviewed. It's like giving somebody the mildest version of a cancer drug and saying, "Okay, we're going to apply this to everybody, even with the most severe versions of cancer," and expecting that that's going to work. It doesn't work that way. There has to be some common sense, recognizing that even if funds are available to a certain limit, the adjuster still has discretion on whether that treatment is reasonable and necessary. There's always that discretion built in.

We don't know that changes to the catastrophic definition really need to be made, but if they are going to

be made, they have to be based in rehabilitation science, just like any changes to the minor injury guideline. These are the most vulnerable of the victims out there, and so great care really must be taken before we start changing systems there.

Nick mentioned the huge power that adjusters have to deny treatment without seeking any medical opinion. This whole system really needs to be reviewed so that there are proper checks and balances. When there aren't checks and balances, that's when we end up with these endless mediations and \$4.5-million lawsuit payouts. That will definitely affect the insurer profitability. You would not go to your family doctor and accept the secretary making the recommendations for your medical treatment, nor should you have to accept the adjuster's recommendations for your medical treatment.

Both the five-year review and the anti-fraud task force recommended looking at that insurer examination system and the qualifications—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Could I just give you one minute?

**Ms. Justine Hamilton:** Yes—the qualifications, the credentialing, the accountability; it's been recommended in so many different reports, and absolutely nothing has been done on it. We really need to start making some progress on regulating these assessments.

Of course, we're entirely in support of all the anti-fraud regulations. We've been quite regularly involved with the anti-fraud task force, and many of their recommendations have come from our recommendations to them. We just have to be careful that anything we do to eradicate fraud is not a dragnet fishing approach and does not result in increased barriers to access for legitimate victims.

We'll take your questions.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much for your presentation. Mr. Colle, are you going to lead?

**Mr. Mike Colle:** I'll let my colleague start. He has a couple of very good questions.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Okay. Mr. Balkissoon?

**Mr. Mike Colle:** **Mr. Bas Balkissoon:** Thank you, Madam Chair.

I understand that in the past you've targeted informing the government on how to deal with reforms so some of the bad actors in the medical system—can you give some specific recommendations to this committee that would be passed on?

**Mr. Nick Gurevich:** Sure. First of all, let me make it clear that most of the health care providers who deliver treatment services to victims of motor vehicle accidents are, in fact, regulated by their own respective colleges, so there is already a form of regulation in place, and that regulation looks at the standards of care provided.

Our recommendations were largely targeted at making sure that the players who are not supposed to be in this marketplace in fact do not come in and that there's a high barrier for entry for those who should not be in this

industry and who are there strictly for dishonest profiteering from the system. Our approach to it and what we've done when we presented to the anti-fraud task force is, we've basically researched the world to see what other standards and what other models there are, and we came up with a stack this big that we've left with them.

The bottom line is that in order to make sure that the bad apples stay away, you have to know who you're dealing with. The process of licensing should be around who owns the business that provides the service, because, as I've mentioned, the providers are largely regulated. Who is it on top who owns the business? Those folks need to undergo what we think is a fairly thorough background check. There need to be assurances that folks don't have a criminal past, that they are reasonable people, that the folks who may be behind in the background are reasonable people who will not be involved in dishonest dealing.

**Mr. Bas Balkissoon:** So are you saying that a legitimate practitioner who is certified by their own college or association or whatever, is working in a clinic where maybe the owner of the clinic is the bad apple?

**Mr. Nick Gurevich:** Absolutely. That could—

**Mr. Bas Balkissoon:** But in that case, shouldn't the person working for that clinic also have accountability and responsibility?

**Mr. Nick Gurevich:** Of course. What I'm trying to say is that the folks who actually work for clinics that defraud the system are not always aware that they are being taken advantage of. There are people who work in our public sector whose licence numbers are stolen and are used by these people. There are many things that people are just not aware of. That's why they are professional fraudsters.

**Mr. Bas Balkissoon:** Okay. Go ahead.

**Mr. Mike Colle:** Thank you. I think that's very insightful because that's what my experience has been. It's not the people working—the professional health care providers and physiotherapists. There's always someone looking for a quick profit who has bought a company, usually a numbered company, sometimes through a front person. They're just interested in maximum quick profits. Therefore, everybody gets a bad name, and the person who is the owner of the company basically walks scot-free and everybody else suffers the consequences. They were certainly very prolific a couple of years ago; I'm not sure how prolific they still are.

You're regulated; most of the health care providers are regulated. How would we regulate the owners? That is the question this committee will have to deal with, and I'm glad you brought that to our attention.

**Mr. Nick Gurevich:** Of course; absolutely. We think that the task force, based on recommendations that we've brought forward and are included in their final report, absolutely make sense in terms of making sure that operators are licensed. I have folks here who have gone to various faculties of medicine and I will tell you that none of them have gone there to somehow profiteer from the insurance business. No such courses are offered in

faculties of medicine. Those are people who are in a helping profession for a reason.

**Mr. Mike Colle:** The other thing that is quite prevalent, I know, in the GTA is that you've got—it starts with the tow truck driver as the first point of entry. He shows up with a little card for a paralegal and another card for the rehab centre and any other service. He takes your truck away and says, "Don't worry. Don't say anything. We've got you set up tomorrow morning to come to the rehab centre." Then that person is locked in that system and can't get out. Right from the beginning, almost from the onset of an accident, a person is really in the clutches of these con artists.

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**Ms. Justine Hamilton:** We put together an entire set of recommendations on the licensing of the business aspects of things such as referral fees—managing every aspect of the business. We could easily send that to this committee. It is quite thorough.

**Mr. Mike Colle:** Yes, because in 2003 we did regulate the paralegals, because up until then, we found out that half of them that were acting as paralegals—it was a huge number where basically they had criminal records. There were people who were on this paralegal list and the government registry, and they had criminal records. One of the first rules is, you can't be a paralegal if you have a criminal record. I know they're now under the auspices of the Law Society of Upper Canada. I think that has helped a bit.

The other thing you mentioned that I think is really acutely important: You said that besides the magic 15%, as I call it, you have to think about people getting the right treatment and the right medical access when they get hurt in an accident. We need to ensure that people get that. If you can get them a 15% reduction but then you can't get the proper medical assessment, and you've got the \$3,500 and you've got to wait how many years before you get a hearing, and then you get assessed to death—so what you were saying, basically, is that we've got to make sure that it's not on the magic 15%.

**Mr. Nick Gurevich:** I think what we're saying is that any reduction to premiums cannot jeopardize the protection that we have in place right now. If you do a straight weighted average of the benefits that are available in each one of those three buckets—the minor injury, the serious non-catastrophic, and the catastrophic—we're the second-lowest, because 80% fall into that minor injury bucket, which is the lowest in the country. There's no more room to go down.

**Mr. Mike Colle:** Yes, and—you can go ahead.

**Ms. Justine Hamilton:** We've got our preliminary survey results just starting to come in, about the changes since 2010. Prior to 2010, only about 13% of people had to be referred to the public system because they didn't have enough funding. That's up to 57% right now. These are preliminary results; this is just from 40 organizations at this stage. We're going to keep gathering the data, but just to give you—a quadrupling of people being referred back into Ministry of Health funding because we don't

have adequate coverage, just since 2010. So I agree: You have to be very careful how everything is balanced.

**Mr. Mike Colle:** Yes, because I think most people don't realize that there are two parallel health systems working here. There's the private health care system within the insurance industry; then there's the public. So if you cut people off from getting it on the auto side, they're going to move over to the public side, and then there's the cost to be paid there.

**Mr. Nick Gurevich:** Exactly. I would throw one caution out there, because there's a tendency to compare Ontario to other provinces. When you're looking at the benefits that are available and what the claim costs are, what you have to bear in mind is that public system coverages vary from province to province. We happen to have had lots of different services that have been delisted over the last many years—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Mr. Colle, you have one minute, please. Thank you.

**Mr. Nick Gurevich:** —so more and more falls under the auto insurance coverage, because the system is just not able to address it properly.

**Mr. Mike Colle:** Yes, so they try to get it on that side, because they can't—so it almost works both ways. If you can't get it on the private, you go to the public. If you can't get it on the public, you go to the private.

**Mr. Nick Gurevich:** That's right.

**Mr. Mike Colle:** So then you get higher auto insurance costs and you get less medical coverage. Thank you very much for your presentation.

**Mr. Nick Gurevich:** A pleasure.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. Mr. Yurek?

**Mr. Jeff Yurek:** Thank you, Chair. Thanks for coming in. Just a couple of questions with regard to the fraud with health care professionals' ID. I'll have to get the acronym for Mr. Colle. HCAI—

**Mr. Mike Colle:** Oh, another one.

**Mr. Jeff Yurek:** It's a computer system that they're trying to use. What are your thoughts about—I've heard that there are problems with the HCAI system in general, but those can be fixed, I imagine, with some proper programming. The whole idea of everything going through HCAI: What are your thoughts with using that as the only billing mechanism to help cut down on the use of your billing numbers, to cut down on fraud?

**Mr. Nick Gurevich:** A couple of things in relation to HCAI and fighting fraud: Number one, just before I comment specifically on HCAI, what's important to note is that one of the recommendations that we've made to the anti-fraud task force and has seemed to gain their attention is the fact that we would like a person to be designated as a clinical director within a practice, and that has to be a regulated provider. That regulated provider needs to know about what's going on in the practice so that they're more readily identified and tapped on the shoulder if anything goes wrong. That's one check and balance that we've recommended be put in place.

Specifically with respect to HCAI, Justine can comment on that because she has been involved in a pilot program. There is a measure that we've also recommended whereby the professionals who are registered on HCAI are tied into a verification system to their college to make sure that it's one and the same person and to make sure that they're notified if a clinic registers them as a provider. It's a good idea.

**Ms. Justine Hamilton:** Because they've started that—it's PCT, another acronym, the Professional Credential Tracker, and that's exactly what they're trying to do.

The problem with any system, HCAI or other, is anyone could input my name and college registration number and I might not know about it. I was part of the first pilot—speech pathologists were part of the first pilot—looking at this. It was interesting to see who had my name associated with them. That project has now continued with a couple of other professional groups and should be rolled out shortly.

I think using HCAI is a terrific method of gathering data. We'd like to see the HCAI data released, actually. I think there's a lot of valuable information in there that could inform this whole process, among others.

**Mr. Jeff Yurek:** There are some privacy laws that we've got to get around to get that HCAI info out to be shared.

**Mr. Nick Gurevich:** A high level.

**Ms. Justine Hamilton:** A high level. You don't need to know individual claimants.

**Mr. Jeff Yurek:** I agree with your clinical provider. I've been advocating that. I come from the pharmacy field, and it's already in place. We have designated managers operating all these corporate stores. It's a good way to hold both the health professionals and the owners accountable.

**Mr. Nick Gurevich:** That was one of the models we looked at when we spoke to the anti-fraud task force: the pharmacist model.

**Mr. Jeff Yurek:** It wouldn't take much to copy the College of Pharmacists' regulations. That's a good one.

The 2010 reforms capped assessments at \$2,000. Is that effective, and are assessments still a problem in the system? Or has it gone the other way around?

**Ms. Justine Hamilton:** Keep in mind when we're talking about assessments, we're talking about two types: one that is generated by the claimant and their treating provider; and then another one that's generated by the insurance company that wants to challenge the claim—so just to make sure we're keeping in mind the two sets. Both sets were capped at \$2,000.

Again, it's one of those broad brush strokes and the law of unintended consequences. Some assessments naturally entail a lot of time and some naturally entail very little time. Providing one fee cap for them all probably doesn't accomplish the goal of making sure that you're paying the right amount for the right service. It does accomplish the goal of limiting the dollar volume, but you have to watch the unintended consequences. For

the ones that entail 20 hours or 25 hours of time, are you suffering in the quality or the calibre of the assessments? The ones that require 45 minutes: Are their fees potentially going up a little bit? Because they can.

You just have to be careful any time there are broad brush strokes.

**Mr. Nick Gurevich:** I think that originally, the treatment providers were quite concerned about the \$2,000 cap. But I've been reading a lot of feedback by insurers now that they're finding that this \$2,000 cap has been very problematic. That's something that they themselves wanted to institute because it doesn't give them enough expertise—people just don't want to do it, because they can be working in the public sector and earning more. I think that they're finding the \$2,000 cap challenging.

I will tell you that, generally speaking, on either end of the spectrum, whether it's treatment providers or insurer examiners, the one major, major difficulty with the \$2,000 cap is that it does not take into account the geographic location of the victim. If a victim is lucky enough to be located in the GTA, despite the endless traffic here, there's much more selection and somebody might get to them very quickly. If somebody has the unfortunate luck of residing—Laurie can comment on it—somewhere in the vicinity of—

**Ms. Laurie Davis:** Bobcaygeon.

**Mr. Nick Gurevich:** Right—the selection there is much slimmer, in which case a specialist needs to commute from another location, and sometimes a \$2,000 cap just doesn't accommodate for it. So in a way, it is discriminatory against folks who live in remote areas.

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**Mr. Jeff Yurek:** Thank you. What are your thoughts on if an accident victim goes to a chiropractor, gets assessed by the chiropractor and then mandating the insurance industry, if they want another assessment, that it has to be a chiropractor, not a medical doctor—a peer-to-peer assessment tool so it's comparable, apples to apples? What are your thoughts on it?

**Ms. Justine Hamilton:** It used to be that way, and it has changed since 2010. I think strong consideration needs to be given to that because we all have different regulated scopes of practice. It would be inappropriate to ask me to comment on a neurologist's plan. It would be inappropriate to ask a neurologist to comment on my plan, because we simply do not have a lot of overlap in scopes of practice. It's sort of like if you had problems with your heart. Do you want to hear what your neurologist has to say or do you want to hear what your cardiac surgeon has to say? You probably want to hear the cardiac surgeon's perspective on it.

So I think that like-for-like is important, recognizing that there are some—case managers might have a range of health professionals performing that role, so some consideration has to be given to that. But in general, the like-for-like is a pretty important premise that goes through our whole health system.

**Mr. Nick Gurevich:** The other reason it's important is because it's one more thing that can be a basis for

dispute, which is exactly what I think everybody is interested in preventing.

**Mr. Jeff Yurek:** How much time do I have left there, Chair?

**The Vice-Chair (Mrs. Donna H. Cansfield):** You have about two and a half minutes.

**Mr. Jeff Yurek:** Two and a half minutes.

Can you suggest some ideas to reform the mediation process? How can we cut the costs in that system and make people get treated quicker—because that's the key to getting healthier—but also cut down the cost that I think is part of the reason driving up our premium rates?

**Ms. Justine Hamilton:** I think one of the first things to do is to get people not into the mediation system to begin with. Others may be better positioned to comment about how the mediation process actually works, but the big thing we've seen is that people are thrown into mediation because that's their only avenue. If you put in a treatment plan to request \$2,000 of speech therapy services, and the insurer denies it and decides not to go for an insurer examination, the only option is mediation.

Since the changes in 2010 that made mediation pretty much the only route for people, that's when we started seeing this huge increase in the files being sent for mediation. So looking at changing a lot of those upstream systems to try and prevent those disputes happening would be probably the single best way to solve the mediation issue.

**Mr. Nick Gurevich:** I'm not sure that we've been prepared to talk to that topic, but another thought might be to triage the requests that are coming in based on: What is the nature of the dispute? Some disputes, as I think we've heard from OTLA, are relatively easy to address and are maybe minor in cost. They should be given different consideration and a different route from other types of disputes that are perhaps more complicated to resolve. Perhaps disputes that have to do with health care services are addressed by some sort of an independent party, obviously with medical knowledge, that can see through the issue and sort of bridge the gap.

**Ms. Justine Hamilton:** We did prepare a list of recommendations about exactly that as well, which we could also get to you.

**Mr. Jeff Yurek:** That would be great.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. Mr. Singh?

**Mr. Jagmeet Singh:** Thank you very much. Good afternoon. Thank you for being here today.

I'm going to try to save some time at the end, because you didn't get to touch on point 7 of your presentation, so I'll give you some time perhaps to touch on that.

I want to hear from you, as front-line workers, with respect to the \$3,500 cap. Our understanding is that a majority of people are being put into that cap, and I think you've presented in line with that finding. What is your experience with that? How does that work? Is it that high, that 80% of people are being put into that category? How does that impact people in terms of the type of care that they're getting?

**Ms. Justine Hamilton:** That 80% figure is actually coming from the insurance industry, and that seems to be in keeping with the experiences of a lot of the clinics that do a lot of MIG treatment. I think none of us would argue that there's a basis for a minor injury guideline in the system. I think the challenge with this one is, if you're put into it improperly, you can't get out. So the \$3,500—I think other parties have argued that \$3,500 is probably not the right cap for those even who should be in that guideline. But a huge issue is the people who have been slotted there. A recent case this week: a broken back, surgery to put screws in; there's no way that person should be in a minor injury guideline, but once the insurer puts them there, that's where they stay. I think that would be a huge issue.

**Mr. Jagmeet Singh:** Thank you. Actually, that was one of my areas of concern, was the fact that once you're in there, you have to try to fight your way out, and it's almost impossible.

**Ms. Justine Hamilton:** Through mediation.

**Mr. Jagmeet Singh:** It looks like the statutory benefit cost has dropped about 50% in one year. The fact that the benefits have dropped that much: What's the human impact, if you can put a face to that? What does that mean in terms of the actual people and what type of care they're not receiving now that they could have otherwise received? Briefly, if you could summarize a little bit about what that means or what that feels like.

**Ms. Justine Hamilton:** We'll have really good data on that for you in the next week or so. The survey we initiated just opened on Thursday, so we've only got 42 companies responding right now.

One of the questions we asked was about the outcome. At the end of the day, what was the outcome in terms of getting back to work, getting back to meaningful productive lives? One of the categories was "very poor": being institutionalized, psych ward, jail etc. It went from 2% to 4%. That's a doubling of people ending up in that category. At the top end, with "returning to at least 50% of their pre-accident roles," we'd had about three quarters of people prior to 2010 falling into that category, down to one quarter.

**The Vice-Chair (Mrs. Donna H. Cansfield):** I'm sorry, I'm having a lot of trouble hearing.

**Mr. Jagmeet Singh:** Can you pause the clock, then, while this is—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Yes. Go ahead. I'll give you an extra few seconds. Thank you very much.

**Ms. Justine Hamilton:** I was just saying that our survey data is looking at outcomes pre-2010 and post-2010. On the very low end, a "poor" outcome being in a psych ward, in jail etc., it went from 2% of people falling into that category to 4%. Fortunately, it's still a relatively low number, but 4% on the social system is pretty expensive. At the high end, in the "good" and "very good" outcome category—so returning to at least 50% of your pre-accident roles—prior to 2010 we were at 66% in that category, and down to 27% in that category post-2010.

We're hoping to get tons and tons of responses, but this is the early data that is very much in keeping with our board's experience, for sure.

**Mr. Jagmeet Singh:** I'm going to switch topics today: catastrophic definition now. My position—and the party's position—is that we don't need to see any further reduction in coverage and protection for people. That's not something we want and not something we support. What is your opinion in terms of the industry changes to the catastrophic definition? I met with a lot of professionals and I know that they don't like—there are a lot of issues with it. There's particularly a concern with the methodology used and the expert panel and the way that the voting took place in terms of which areas were given more importance or less importance. Could you just briefly summarize your thoughts on the proposed changes to the catastrophic definition?

**Ms. Justine Hamilton:** Patricia, do you want to? Our cat expert.

**Ms. Patricia Howell:** My name is Patricia Howell. I was the project lead of a group of about 28 experts that took a look at the original recommendations by the FSCO panel, the eight-member panel. As opposed to the FSCO expert panel, we had 28 rather than eight. Our group included a lot of specialists. We had, for example a physiatrist who worked in spinal cord rehab, which was not in the original panel. We had all of the different areas covered. We also had treating clinicians, so OTs and physios who actually work every day with accident victims, and that was not part of the original panel.

The original FSCO panel, six out of eight of them, were not clinicians; they were more epidemiology background and that type of approach—which I think right from that, when they used a Delphi method, where six out of eight could pass something, that means right away the methodology did not work. The Delphi method they used, on which, as I said, they did a consensus vote, six out of eight agreed with something and then that went into the final recommendation: That is a method that really needs to be used with a much larger group, and also with a more consistent group. So if you had a group of psychiatrists commenting on the psychiatric aspect of the cat definition, and you had a larger group and they were all psychiatrists, then that's an appropriate method.

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So the methodology was flawed right from the beginning, and I think the bottom line is that the final recommendations that came up are not fair across all individuals. Certain disability groups like a single-limb amputee qualify, where someone under the psychiatric has to reach such a high threshold that they're almost suicidal and have multiple hospitalizations to reach the same threshold. If you think of how disabled someone would be who's so psychiatrically ill versus someone with an amputation who can still work and look after themselves, the level of disability is not the same across.

In general, they raised the bar. They made it so much more difficult to be deemed catastrophic. When you look that the non-cat that has been cut, there are a whole bunch of people—20% of injuries are running out in six

months to a year. Really, you don't want to be seeing it—it's even more difficult to achieve cat. If anything, it should be easier.

**Mr. Jagmeet Singh:** I'm nervous about the time running out, so I'm going to touch on the anti-fraud task force. I know that you and I and many people in this room all agree that we need to eliminate fraud. Of course, that's something that everyone can agree on. No one's going to disagree with that. But are there any specific recommendations that you have concerns with that you wanted to express at all that you flagged?

**Mr. Nick Gurevich:** I think a concern is with the overall approach to implementation. The recommendations, we agree with. We endorse them. It's the implementation that we have concerns with. Our concern is, when their recommendations get implemented, we would like them to not create additional barriers to access treatment by victims or provide treatment by treatment providers, and I think that even the early recommendations that have been implemented are starting to get that flavour.

I'll give you an example. There has been one recommendation that has been implemented—which we recommended, by the way—in the original task force report, which was that treatment sessions are tracked by the health care providers when they go to see the clients so that if there's a question comes up in connection with fraud, there is something in writing that is being tracked. The recommendation was that insurers could call on service providers to provide them with that proof.

When the recommendation was implemented, the responsibility for tracking was switched from the service provider, from the treatment provider, on to the victim. We deal with lots of victims who are brain-injured—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Mr. Singh, you have one minute.

**Mr. Nick Gurevich:** It is impossible for them, practically speaking, to track these things, and if they don't track, the implication is that they will not receive the funding that they need. The insurer can say, "Sorry; you haven't been tracking this stuff. You can't prove to us that you're received the treatment. We're not paying." That's a problem.

**Mr. Jagmeet Singh:** In the last 30 seconds, anything you'd like to say on your own—any ideas you can throw out there?

**Mr. Nick Gurevich:** The one thing that I would like to put out there is that this end of the table is very poorly funded as compared to the second presentation that sat here today, and we've been recently vilified quite a bit in the media. I would like to make the point to everybody here that there are very much legitimate victims out there. Most of the health care providers are top-notch individuals, and all they want to do is help legitimate victims. We are 100% committed to working with any stakeholder group and working with you folks to make sure that fraud is eradicated.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Wonderful closing. Thank you very much for your presentation and for your patience.

This committee stands adjourned until—

**Mr. Mike Colle:** Wait. I have a couple of questions. Can I ask that we get a list of acronyms and the definitions and explanations of all the acronyms used over the last day?

Secondly, can we ask that representatives from GISA come and appear before this committee? They were referred to all during the day and I'd like to see if they're real people and have them come and present.

My third request is that we get a report on the first-chance discount system for first-time insurers and for newcomers that is used in the Maritimes, especially Nova Scotia, for the committee's deliberations, so we can look and see how it works—the pros and cons of it—and put it in the hopper and see if it helps.

**The Vice-Chair (Mrs. Donna H. Cansfield):** I think it would be prudent to let everybody know that we have not planned any future dates, so I don't know when this would actually happen. I wonder—

**Mr. Bas Balkissoon:** The subcommittee.

**The Vice-Chair (Mrs. Donna H. Cansfield):** I was going to say, could we refer this to the subcommittee for a discussion? Is everyone agreeable?

**Mr. Jagmeet Singh:** That we give the subcommittee authority to make decisions on these—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Then the subcommittee would come back and report to the—

**Mr. Mike Colle:** On the GISA part, but the other things we can do without a subcommittee.

**The Vice-Chair (Mrs. Donna H. Cansfield):** The other is just definitions. That's fine.

**Mr. Jagmeet Singh:** I can put it right now that I agree with the GISA recommendation. We can probably vote on that right now.

**The Vice-Chair (Mrs. Donna H. Cansfield):** I think we should take it to the subcommittee, because we don't have any dates.

**Mr. Mike Colle:** Yes. It's better the subcommittee do it.

**The Vice-Chair (Mrs. Donna H. Cansfield):** As I said, we could invite them, but we don't know when. It could be months or whatever.

Ladies and gentlemen, this committee stands adjourned until Wednesday, April 17, 2013, after routine proceedings.

*The committee adjourned at 1755.*





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## Official Report of Debates (Hansard)

Wednesday 17 April 2013

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Mercredi 17 avril 2013

Standing Committee on  
General Government

Automobile insurance review

Comité permanent des  
affaires gouvernementales

Examen de l'assurance-  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Wednesday 17 April 2013

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Mercredi 17 avril 2013

*The committee met at 1600 in room 228.*

## AUTOMOBILE INSURANCE REVIEW

**The Vice-Chair (Mrs. Donna H. Cansfield):** It's 4 o'clock. The Standing Committee on General Government is in session.COLLISION INDUSTRY  
INFORMATION ASSISTANCE**The Vice-Chair (Mrs. Donna H. Cansfield):** Our first presenter is the Collision Industry Information Assistance, with Mr. Norris, the executive director. Mr. Norris?**Mr. John Norris:** Thank you.**The Vice-Chair (Mrs. Donna H. Cansfield):** Good afternoon, sir. You have 10 minutes for a presentation. I'll try and give you a heads-up around the last minute, and then a rotation starts with—anybody remember?—Mr. Yurek. You'll have the leadoff on the—**Mr. Jeff Yurek:** Sure.**The Vice-Chair (Mrs. Donna H. Cansfield):** Great. Thank you very much.

Mr. Norris, please?

**Mr. John Norris:** Thank you, Madam Chair. Everyone has a copy, I believe, as well.

Madam Chair and members of the committee, thank you for allowing me to speak here today with you. My name is John Norris. I am the executive director of the Collision Industry Information Assistance association, or CIIA. We are the industry trade association for the auto body, collision repair and auto refinish or painting facilities, and their owners and managers, across Ontario.

Our industry association provides programs and assistance such as the Vehicle Security Professional Program—in concert with, in fact, the Insurance Bureau of Canada investigative services—which works on ensuring that security-sensitive information on a vehicle can be used properly in repairing a car and then tracked to be sure it is not used later in any auto theft.

We helped organize and train repair shops for the stolen-and-salvage-vehicle program in Ontario that ensures that damaged, and then rebuilt, vehicles are safe for the roads in Ontario, in this province. Over 385 collision repair facilities are licensed by Ontario to perform these important safety and structural inspections, using qualified, Ontario-trades-licensed technicians.

Most of this work on repairing collision-damaged vehicles in Ontario is paid for by insurers, and we have a history of working co-operatively with government for many years. Today, we wanted to update you on our experiences in dealing with some of those insurers.

We've all heard the horror stories in the last day or so of testimony on the massive increases in claims for injury, remediation plans and clinic billings. Those expenses have increased by some 200% of prior levels. Collision repair costs, however, have dropped from 2004 to 2012. In fact, we're actually charging an auto insurer in Ontario in 2012 1% less for a vehicle repair than in 2004. No wonder not one speaker, from FSCO to insurance groups, has complained about costs of vehicle repairs. Lots of complaints about injury and remedial treatment costs, but nothing on collision repair, only that pricing is stable. In 2004, collision repair costs were 18% of the premium; today it is 10%. Understandably, repair shops are under considerable financial pressure.

You will also notice that I am here by myself today. No one else, not my board of directors or any of the shop owners or managers, is here with me. Why is that? Because they are too scared to be part of this presentation. They worry that without whistle-blower protection, whatever you hear today about insurance practices will mean that their collision repair business will be blacklisted and they'll never be allowed to perform insurance-paid repairs again, leading to the closure of their business. Please understand that many insurers want to do the right thing and look after their policyholders. Some do not, and those are the insurer practices we want to highlight for you.

Let's look at some of the insurers' practices that we see in the field and in our shops every day that cost money and can be changed to reduce costs and provide those monies to reducing premiums.

Number one is parts procurement. Some insurers will demand that a repair shop become a "preferred" shop with them; the insurer will recommend your shop to their policyholder after a vehicle accident, in return for a lowered repair cost. That sounds like a normal business practice transaction. However, the more marketplace dominance that an insurer has in a given region, the more the shop must capitulate and do what the insurer wants, for fear of being blacklisted where the insurer uses their phone-script templates and discussion with policyholders to route customers away from the shop, leaving the shop's business future at risk. If an auto insurance com-

pany was responsible for 40% or more of your shop's volume, the shop owner feels he has little choice but to join the insurer's program.

Now that the insurer has received labour cost reductions, next comes parts. Even though the shop has been buying parts in the local community to fix those vehicles, he is now told by the insurers that that practice must stop. He must only buy parts from suppliers that the insurer orders him to deal with.

This means a shop in Timmins or Sault Ste. Marie is no longer buying their parts locally and getting quick delivery. Now he must order parts from Newmarket or Toronto, and wait four or five days for delivery. Why? Because the insurance company gets a fee from the parts supplier each time this happens.

Some 2% to 3% of every part that's ordered goes to the insurer. Many shops lose their regular profit levels. Parts ordered locally are still possible, but not recommended by the insurer. But that supplier must pay a fee on each part to the insurer. Even if the same part is available immediately locally, the shop cannot order the part locally.

For all that newly acquired cash that the insurer now receives, we have no record of it being used to offset premiums, only to acquire other companies. Shop repair schedules and controls are gone, local suppliers are no longer being used, despite years of good service and value to the shop.

When you realize that some 45% of the repair is in parts, the monies that insurers siphon off from the repair shops and suppliers are dramatic. We believe this practice may be anti-competitive; it certainly reduces local buying, and we can find no evidence that it's being used for premium reduction, only to buy other companies.

**Cheque withholding:** Cheque withholding is a fee of up to 5% that's removed from the face amount of the cheque sent to the collision repair shop to cover the invoice for that repair. For instance, a \$3,000-repair bill that is sent to the insurer for a damaged vehicle repair is forwarded to one of the insurers. They only send the shop a cheque for \$2,850.

A portion of the retained funds are offered to the shop if they continue to stay on the parts procurement program. We don't know what happens to all those 5% withholdings. We have no evidence to suggest that those withheld funds that should be going to the repair shop are going to reducing insurance premiums. With thousands of claims and vehicle repairs, that money adds up quickly.

**Sale of estimate data and secondary billings:** This is worrying; it's expensive, and it's worth \$300 million. The law in Ontario provides that a collision repair shop must provide a repair estimate that's approved in advance by the car owner, and that's fair. Because of increasing technologies, two companies in Canada control the electronic estimating platforms that are demanded by insurers for shops to use. Some of those estimating systems can cost over \$500 a month for a shop to possess and use.

The problem, however, is that no collision repair shop in Canada can own one of these estimating systems; they can only rent or lease them. That means, and it is included in the rental agreement, that the data generated by the electronic estimating system to show to the customer for approval is not owned by the shop, but it's owned by the estimating company, and they sell it.

One insurance industry ad shows that insurers can make an additional \$300 million by using this data to re-bill customers. Once an insurer knows you've had an accident, and didn't report it to them—probably because your insurance broker said not to—then you are in a different risk bracket, and the insurer can then re-bill that motorist for higher premiums. Not only do we consider this a privacy issue, but those additional funds—up to \$300 million—may not be considered by insurers in the same premium pool and not being used to reduce insurance premiums.

**Failure to inspect cash payment settlements for on-road vehicles:** This is another insurer habit we see all the time that's difficult to understand. Ontario auto insurers have an obligation to reimburse a car owner with funds to repair their damaged vehicle—fine. However, in a recessionary-type environment, many of those folks who receive the insurer cheque decide to use an underground repairer or a backyard hacker or, frankly, bang out the dents themselves. Duct tape is seen on more and more cars. Red tape rather than the proper tail light seems to be okay.

Some damaged cars aren't repaired at all, and the money goes for a vacation or a new TV. FSCO should demand that any vehicle—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Mr. Norris, you have one minute left, sir.

**Mr. John Norris:** Thank you—with structural damage or safety-biased damage must be re-inspected by an Ontario-licensed structural vehicle station in Ontario prior to being reinsured for on-road use. No one in Ontario should face a prior-damaged vehicle, not fixed, coming on the highway.

In the interest of time, we've just got some other items that I'll highlight quickly. We've identified the failure to accept our offers to identify fraud. We have all sorts of opportunities on the collision repair side to ask questions of that customer coming in the door. Particularly, were they solicited? Did a chaser tow truck see them? What did the accident salesman—the person from the medical clinic who shows up at the accident—tell them?

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We're recommending standards for facilities, as per the Anti-Fraud Task Force, so that we know that the right shops are being paid, i.e. the properly licensed facilities.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, sir. Mr. Yurek.

**Mr. Jeff Yurek:** Thanks for coming in, John. Good to see you.

**Mr. John Norris:** Thank you.

**Mr. Jeff Yurek:** The Anti-Fraud Task Force that had the report last November mentions regulating the tow

truck industry. Can you speak to that issue, whether you support or reject, or do you have any changes you'd like to see to that?

**Mr. John Norris:** We've had challenges with the tow truck industry for many a year, and we've been able to get local bylaws and police collision reporting centre programs municipally across the province, in various areas. The problem is, as the Anti-Fraud Task Force recognized, it's a mismatch—some police services board activity, some bylaw activity.

There has to be a regulatory investment. I believe that the idea from the Anti-Fraud Task Force of a designated administrative authority makes some sense. It's an opportunity for the industry to step up, for the decent groups within the towing industry to come forward—who have been maligned, frankly, by some of the bad apples they have in their industry. There's a significant number of good towers who could come forward and hopefully make that system work.

We had one very similar for collision repair in 2002 called the Collision Repair Standards Act, which was based on the same idea—that the industry could self-manage. We're hoping that the two could be merged together.

**Mr. Jeff Yurek:** Just going further on that report, about the collection of information about towing expenses and the relationship between the operators, collision repair facilities and health care clinics: You went over that quickly. If you want to touch on those ideas.

**Mr. John Norris:** When we spoke to the Anti-Fraud Task Force, we thought that we would have a great opportunity to be able to help them on their fraud investigation and fraud awareness programs, because the first thing that happens is it comes into our shop. It's the car on the hook that comes in, and it has the \$14,000 tow bill or the \$2,000 tow bill. We get to see those first-hand, and what we're hoping is that FSCO will give us a process, once they're finished, to identify at the shop level how we can do that.

We used to have a document for all of our shops where we could write that down initially. We'd talk to the customer: "Were you assisted by a tow operator? What did he promise you? What was going to happen?" We had that information, and we'd hand that to, at that time, whoever was responsible; it might be municipal councils, it might be a towing bylaw officer, or it might be a police services board. It would be so much easier if we had one simple provincial process where we could handle and get them that data and get them that information from the shops.

We see it first, Jeff. We see it not only with the tower, but we see it with—we call it the accident benefits guy, the guy who shows up at your accident scene and knocks on your window to say, "I know you're not hurt, but tell the police you are, and I'll meet you at the hospital," and offers them cash to make those kinds of decisions. We can find that out.

We can also find out whether the accident has been staged. We're professionals. We've gone to school for

three years. When we put that car up in the air, we're going to know whether that vehicle has been hit today or it's been hit six months ago, and whether that's in fact a staged accident, whether it's really the car involved or it's not, and we can report that. We just need that process with FSCO.

**Mr. Jeff Yurek:** In regards to garages, do you support licensing of the auto garages, standardization? You made a quick reference to Frank Klees's bill—

**Mr. John Norris:** Yes.

**Mr. Jeff Yurek:** —that somehow didn't get royal assent. Can you touch on that?

**Mr. John Norris:** We supported the Ontario Collision Repair Standards Act, as did this House unanimously, in 2002. We think it's still a good time to have it in place. Unfortunately it's not in place at this point. Yes, it provides standards. What it says in that piece of legislation is that if a shop doesn't meet certain standards, both in equipment and in performance, then there are penalties; there are significant penalties.

The other step is a step that we're taking now with the College of Trades to ensure that insurance companies not pay facilities. We heard this time and time again: The problem with fraud in the industry is that it will stop if we stop paying it. If we know that that repair is going to a backyard operation that has no trades-licensed technicians—which is the law in Ontario—then we need to find a way to stop it. Mr. Klees's legislation would insist that that shop could only get paid as part of that package of being able to be compensated by the insurer.

The Ministry of Labour did an inspection last year on shops. They found six oil and lube shops in Barrie doing collision repair work in the back of the oil and lube bays. They had no technical capability, but they were being paid by the insurer. They had no capacity to do it, they had no equipment, and they had no staff. Those cars were so badly repaired that they had to actually write the cars off and, after they paid for the repairs, pay for the cars again to scrap them. It was so difficult a problem.

Insurers continue to pay for activities they shouldn't be paying for, frankly, knowing that they shouldn't be paying for them. If we had a program that we mentioned, yes, that would identify all those errors and all those headaches. Frankly, several hundreds of millions of dollars are paid out unnecessarily.

**Mr. Jeff Yurek:** How much time do we have left there, Chair?

**The Vice-Chair (Mrs. Donna H. Cansfield):** About four and a half minutes.

**Mr. Jeff Yurek:** Four and a half minutes? Good.

At the end of your statement here is "Aftermarket auto parts." Can you just discuss the parts procurement process and touch on that?

**Mr. John Norris:** The parts procurement process is, the insurer will determine who you are going to buy parts from. What we're going to be seeing more and more is that the original equipment parts that are made by the car companies—tested by the car companies to make sure that they're safe—will not be used on your car. More and

more, insurers will start ordering in, and they do now, aftermarket parts. These are parts that may have been tested. They're close. They may not fit well. They may not actually respond in an accident the same way. Those parts are going to be going on your car. You'll see more of them because it's much cheaper to do.

Our position is that they are a viable repair. There's very little difference in structure in a fender, for instance, between one made aftermarket in Taiwan or Bangladesh and one made here by Ford, Chrysler or GM, for instance. There is a significant difference, in our view, in structural or safety parts. We have situations now with insurers so anxious to save money that they're demanding that aftermarket or offshore structural safety parts be put on a vehicle.

We gave an example in there of an aftermarket shock bumper. The insurer demanded that he use an aftermarket shock bumper; these are the shocks that make sure that the airbag goes off at the right time. Airbags are incredibly sensitive, by the thousandth of a second. They have to work properly. They wanted to put an aftermarket, untested bumper in. He refused and simply said, "No, I won't do it. I can't, for safety reasons." He went out and bought a new one from the manufacturer, put it in, only charged the insurer the cheaper price that the insurer wanted to pay, and the insurer blackballed him for a month. They said, "That was an unacceptable procedure. You must use aftermarket when we tell you to use it."

I think we're walking a fine line. We're going to see cars damaged more frequently, and we're going to see people injured more dramatically on the safety, security and structural side. This isn't the fender. This isn't the trunk lid. This is the front bumper, the structural parts of the car that are designed by the manufacturer to react in a certain way in a collision. We're putting on something cheap and plastic from an aftermarket supplier for a structural safety part. It's going to jeopardize all of us, and I think it's going to lead to much higher claims.

**Mr. Jeff Yurek:** Thank you, Chair. We're good.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Mr. Singh.

**Mr. Jagmeet Singh:** Mr. Norris, thank you very much for your presentation. What I'm hearing is a lot of very good insight into what's going on in the industry, and I thank you for that.

I want to propose something to you, if we could go through some of these bad practices, if I can call them that, that the insurance companies are doing themselves, whether it's on the side of policies that they're requiring folks from the collision industry to follow that could jeopardize safety, or it's steps that they're not taking to prevent paying collision centres that aren't actually properly licensed to do the job, or they're not taking the time to investigate the actual claim itself. What's your opinion on, instead of putting that onto FSCO, what if there was a policy in place that insurance companies themselves were responsible to make sure that they double-check who they're paying out the funds to, if the collision centre is a proper centre that's doing proper

work? If folks from the collision industry actually assess the vehicle and say, "Listen, this vehicle was clearly in a staged accident," put the responsibility on the insurance company to make those inquiries before they make payments. What's your position on that?

**Mr. John Norris:** It's a big question. You've got a lot of different portions in there.

Certainly, the insurance company has an obligation, one would think, to make sure that that's properly happening—that they're expending monies properly. Time and again, we see the opposite, and I'm not sure that a change in policy is going to do that. Certainly, removing their 12% return on equity is going to force them to have a look, seriously, at their fraud issues now, where they may have not been looking at them previously. So there's a good opportunity for the insurers to do it.

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Our challenge, at the shop level, is that we don't have a communications format for that. If we see a fraud issue, if we see a damage issue, if we see a staged accident issue, we're not quite sure what to do. Do we call FSCO? Do we call the insurer?

We went to an insurer in Ontario with a \$1.25-million vehicle fraud. It was five staged accidents with previously damaged vehicles. They told us, "It's only \$1.25 million. We're not worried about that. Give us something big."

**Mr. Jagmeet Singh:** Which company? Are you able to say which company said that?

**Mr. John Norris:** It was an issue with the Ministry of Transportation for one the top five insurance companies in Ontario.

**Mr. Jagmeet Singh:** Okay. Fair enough.

If you could list, on a shop-level basis, the major areas where you see the insurance companies not being vigilant in terms of, they're just spending money without being aware of—they're wasting money, basically. What are the top ways that they're wasting money and not being careful about the funds that they're actually paying out?

**Mr. John Norris:** Because insurers will pay anyone and not the actual facilities who are trained and competent and licensed in Ontario with their staff to do the repairs, we're seeing a lot of insurance money going out for facilities that are underground. They're polluting; they're dumping their paints down the sewer. They don't have licensed technicians. They have individuals who have no competency or training to do that repair—bad news. Not only does that hurt the apprenticeship process of hiring new workers, it hurts legitimate shops. These are all undergrounds. They're not paying their taxes. They're not paying the workers' compensation. We're ending up with unsafe vehicles and a poor reputation. That's number one.

They should only be paying legitimate repair—we're talking about legal repair facilities. It's not terribly difficult for these guys. But just those who have licensed technicians, and it's public; it's available on the websites

that we have that now. So they should be paying those and not paying illegal, unlicensed facilities.

There are also some challenges in some of the issues for the stolen and salvage vehicle program. We inspect vehicles, and we find vehicles where insurers have—probably by error—made a mistake. Those mistakes are \$80,000 or \$40,000 mistakes each time. They cost them a significant amount of money.

The other thing we see—and I've never quite understood the logic of this, and please maybe help me to try to understand it. When we inspect a car that has been written off by an insurer, and it's going to go back on the road, we're inspecting it for structural competence. We're trades-licensed people. We want to make sure it's safe—fair enough. At the same time, we're required in Ontario, by law, to check all those—all the parts that went on that car, we need the paperwork for. We need to have on that paperwork the VIN number, the identification number of the car it came from. Those are great ideas because it tracks stolen cars; it tells us where the parts are coming from if they've been stolen from another vehicle.

That's for those that are being rebuilt, but an insurance company that simply says, "We're going to pay you to fix that car," they don't check any of that. So the receipts come in from the auto recycler, and there's no VIN on it. We have no idea if it's stolen; we have no idea if it's not stolen.

In fact, the insurance company can pay for it twice. They can pay for it when the car is stolen and have to reimburse the customer, and then they're paying again to buy the stolen parts back to put on the car because they don't check the VIN codes. They do on a rebuilt vehicle, but not on vehicles that they're paying for.

**Mr. Jagmeet Singh:** Interesting. I wanted to ask you a little bit about—you had a point in here. You weren't able to touch on it when you were going through your presentation, and I think you hinted at it. It was about folks who are afraid to come forward and talk because there's no protection. Maybe you could tell me a little bit about the issues that you see with respect to whistleblower protection and how you would want to see that improved.

**Mr. John Norris:** We had a call from a shop and I went down to the shop. He said, "Look at this Toyota Sienna van." It's a \$12,000 van. It was being declared a total loss by the insurer. In other words, the insurer wants it scrapped. There was nothing wrong with the van. It had a broken headlight. He could have fixed it for \$200. It's a \$12,000 van. Why would anybody write that off? Why would anybody not repair that?

Then the shop told me, "Well, I was told to put it out back because the insurance company appraiser's brother is coming down and he's going to pick it up as scrap for \$300." So, here's a \$12,000 vehicle that someone has been paid \$12,000 for—somebody has lost that vehicle—and they're going to sell it to his buddy, or his brother in this case, for \$300. That's pretty clearly internal insurance fraud—internal fraud within the company.

That shop was scared silly. He couldn't talk to anybody about that. He could talk to me, but he couldn't bring it up to the insurer because he knew that if he brought that up that would be the end of his relationship with that insurer. He wouldn't be able to get any more work from that insurer. He'd be blackballed. He'd be out of it. He'd have his shop shut down.

That's why whistleblower protection is so important for us. It's also important for us because when we do an inspection—particularly a salvage inspection, for instance—we have no way of being able to identify to the authorities, whether it's MTO, FSCO or the insurer, without that fear that we're going to have retaliation. There are ways of solving that, and we'd love to discuss it with FSCO on how we could do that.

For instance, you're in the inspection business of a car, and some guy you know who's in the Russian mob comes in and says, "You're going to inspect this and you're going to pass it. That's it. We'll give you 100 bucks; you're going to pass it." "Oh, let me have a look at it." "No, you're not going to look at it; you're just going to pass it." What do we do with that? There's no set process, and if we go back to the insurer or back to the owner of the vehicle, we don't know what's going to happen to them—what's happening to that individual.

**Mr. Jagmeet Singh:** Thank you for that.

I wanted to ask you about—and this ties into what we just talked about—whistle-blower protection. You mentioned a couple of times that if there is a disagreement, if you want to, for example, order a particular part you think would be a better and safer part, and that part procurement issue that if you want to order a part locally because you can get it quicker—for all of these issues, you indicated that if you don't comply with what the insurance company is suggesting or encouraging, it would have a very damaging impact on your business. How prevalent is that? How often does that actually happen? Is it as serious as you're making it sound? If you don't follow through with these practices, that the insurance companies will stop referring business to you—tell me some of the stories about that.

**Mr. John Norris:** I think it's more serious than we know. We've got areas in Ontario where one particular insurance company has a dominant influence, has most of the policies—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Mr. Singh, you have one minute.

**Mr. John Norris:** They simply tell the shops, "You're going to do this. If you don't do this, we know that we can route 70% of your business away by telephone. When we talk to our clients, we're not going to send them to your shop anymore." So that threat of the failure of that shop is enough to get them to toe the line and do what they want to do.

Then, he's now being hit sometimes for rental costs for his customers while he's waiting five days for the part. We have one shop that would go across the road. He wouldn't even have to order it. He'd just walk across the road to the Honda dealer and pick up the bumper. He

can't do that anymore. He has to buy a bumper—same price—800 kilometres away, wait five days and pay for the rental for that because the insurance company gets a fee, a kickback, from that supplier.

The challenge and the frustration is that the shop can't get the work done. It doesn't know when the part's going to come, it doesn't know how damaged it is, it can't complete the estimate and they're not able to deal locally with suppliers they've had for years. The frustration is they've lost control of the business now. An insurer is doing this not because—and I want to make this really clear—it's a better arrangement for the customer or because it's faster to get it out, but for the kickback.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Norris. Mr. Balkissoon?

**Mr. Bas Balkissoon:** Thank you, Madam Chair. Thank you for your presentation, Mr. Norris. I have a couple of questions. The first one I had is, in terms of your membership of your collision shops, is membership voluntary?

**Mr. John Norris:** Yes, it is. We currently have 305 members from all aspects, whether they're dealerships, independents, franchise groups—it doesn't matter as long as they're legally in the industry.

**Mr. Bas Balkissoon:** Would you prefer that the government look at some kind of licensing process that is run by the provincial government rather than just a business license from a municipality, and then it would be a more coordinated process?

**Mr. John Norris:** It's an interesting question. It certainly has been looked at in the past. Finance has looked at it, and we've worked with them with the Collision Repair Standards Act. There is no specific licence in Ontario for collision repair shops. We are regulated by 13 different ministries and we do have certain rules we have to meet for some of those ministries, and we're politically active on the environmental side. So that's one way to do it.

The way we had recommended it at the time was a designated administrative authority or a self-management program. It was very specific—Mr. Yurek talked about that—from Mr. Klees's legislation some years ago. That would specifically set who was on the board. There were four members from government: one from consumer, finance, etc. They would make the decisions as a self-management group. Generally, the self-management programs tend to be tougher on the bad apples within their own industry. We had a \$50,000 maximum fine in that original legislation for someone who wanted to get out of line.

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I like the designated administrative authority; it has worked well with OMVIC and with TICO and with some of the other agencies. I see it really functioning effectively, so that would be my preference. The second would be, yes, a provincial-wide process of regulating collision repair shops, as per, perhaps, the Collision Repair Standards Act—set out those regulations as well.

**Mr. Bas Balkissoon:** I'm just thinking that if you had that regulated body, whatever it may be, if we could get

to it eventually, then these issues that you've mentioned about parts procurement, kickbacks—all those issues could be dealt with.

**Mr. John Norris:** Yes; that's correct.

**Mr. Bas Balkissoon:** With regard to the kickbacks that you mention right now, the fraud task force: You said you appeared before them. I suspect you made a similar presentation.

**Mr. John Norris:** It wasn't as serious as this. It has been getting far more problematic in the six months since then—what's going on in the marketplace. And I can tell you that the insurers would never agree with me that it's a kickback. It's a fee that's charged because people want to deal with them, of course.

**Mr. Bas Balkissoon:** You also said that when you presented at FSCO you were interested in something—I just heard part of it—standards for facilities?

**Mr. John Norris:** Yes.

**Mr. Bas Balkissoon:** You have a model or a package that you could share with us?

**Mr. John Norris:** We actually set a series of standards in 1988 which we've been following. Many insurers use that standard that we set in 1988, as do the governments in Manitoba, Saskatchewan and BC, where there are public insurance programs. So I can easily share that with you. It's not elitist; it's fair, it's reasonable and it means that the vehicle would be repaired safely, which is the key.

**Mr. Bas Balkissoon:** Okay. To your knowledge, the issues with the collision shops, the towing industry, etc.: Do they have similar problems in other provinces, or are you aware of anything that makes it better in the other provinces?

**Mr. John Norris:** We don't have similar problems in some of the other jurisdictions. You've probably heard the stories about Manitoba and Saskatchewan and BC as public insurers.

Manitoba has a very interesting way of handling this problem. What Manitoba has done is said, "If you meet a certain standard, you get"—I think it's \$66.69 an hour—"for your labour." You can still operate in that province if you don't want to meet that standard, but you're going to get half of that. They have a built-in incentive, financially, to move that shop to a higher operating standard to make sure that it's compliant.

**Mr. Bas Balkissoon:** I'm interested in the towing industry because I've heard a lot of negatives about the towing industry.

**Mr. John Norris:** Yes. From the articles we get and the meetings we have in BC, Ontario seems to be the most problematic jurisdiction—particularly the GTA. It's an opportunistic problem. We do not have those problems in western Canada.

**Mr. Bas Balkissoon:** But is your towing licensing process different? Is that why? Or is there something that we need to know here and implement here?

**Mr. John Norris:** The processes are different. You have one insurer, a public insurer, who can put their foot down and make sure that things happen properly. Nor do

they have the huge volume of accidents and traffic we have that's difficult to regulate in a metropolitan area. I think it's frustrating for everyone in this room to drive along the QEW and you see that tow truck behind each bridge; they're just waiting for that opportunity to make some extra dollars. For some reason, we can't seem to regulate that. The other jurisdictions regulate that provincially. We have not done that here in Ontario.

**Mr. Bas Balkissoon:** My colleagues have some other questions of you.

**Mr. Mike Colle:** Good to see you again, John.

**Mr. John Norris:** Thank you, Mike.

**Mr. Mike Colle:** As you know, the NDP party here is saying that one way of fixing everything in the insurance biz is by reducing premiums by 15% in 12 months. Would that help deal with all these issues you raised?

**Mr. John Norris:** I'm not sure what you mean by "would it help deal." All the issues I raised can save insurers significant millions of dollars that could be used for that premium reduction. Right now, our experience and our discussions with the insurers is that they use the money they get from us and they use it for other purposes, not rate reduction—largely to capitalize other companies or to pay the loans they've taken out in buying other insurance companies to get a higher marketplace dominance. Certainly the money that's coming from the issues we've raised—if we can solve those, is a significant chunk of millions of dollars that could be used for—

**Mr. Mike Colle:** But could we get rid of all this fraud and kickbacks and all the—

**Mr. John Norris:** If you just cut it down by 15%?

**Mr. Mike Colle:** If you cut the premiums down by 15%.

**Mr. John Norris:** No, you wouldn't get rid of the fraud.

**Mr. Mike Colle:** Okay. The other question—

**Mr. John Norris:** But you could solve some of the fraud to give you the money to get to that 15%.

**Mr. Mike Colle:** So you've got to solve the fraud first.

**Mr. John Norris:** And use the money differently.

**Mr. Mike Colle:** Yes. The other thing is: In terms of the collision auto repair business, aren't there concentric circles in this industry? In other words, the auto body collision shop deals with car rental companies, right? They deal with appraisers. They deal with insurance companies. Who else do they deal with?

**Mr. John Norris:** They deal with the towing companies, the parts firms, the paint companies who provide the paint and the environmental control people, because they're painting cars in an environmentally controlled area with an environmentally sensitive product. So there are others that they interact with.

**Mr. Mike Colle:** I guess the thing is that you cannot just deal—in terms of kickbacks, in terms of fees—with just one aspect of it, because I suspect there are preferred relationships between the car rental companies and the auto collision companies, right? The repair shop will say,

"Here, go up the street to get a discount." Nothing is done just for being boy scouts. There are all kinds of relationships with all these concentric circles. So you'd have to also regulate and police, somehow, all these various component parts of auto collision and related associated partners in this industry.

A very interesting point you made at the beginning, John, is that there has actually been a reduction in the cost of auto repair bills over the last number of years. The amazing thing is that we've got these safer cars and we're reducing collision costs, yet the cost of claims is just going through the roof here in Ontario compared to everywhere else.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Mr. Colle, you have one minute, please.

**Mr. Mike Colle:** Just to restate again, there has been this reduction in your cost over the last number of years, which is quite significant. At one time, I remember, earlier on, one of the driving forces behind higher premiums was that they had to pay for the price of repairing your car, whereas now it's shifted.

**Mr. John Norris:** I don't think anyone is coming to you from the Insurance Bureau of Canada and telling you that repair costs are up. They're not, and I don't think any of the documentation, even from the anti-fraud group, identifies that costs were up on that. They're not. Our costs are consistent; it's the other side, the medical side, that's going to—

**Mr. Mike Colle:** The medical side—so we've had one success here, and that is on the collision repair costs, but on the other hand, there are still problems in getting where you've gotten to even find more savings if there is proper intervention and oversight there.

**Mr. John Norris:** Please understand, Mike: To be honest and fair, we've been cutting back and cutting back and cutting back, to the point where the industry is in very serious financial trouble. If we get hit with a 15% cost reduction because the insurers come to us looking for that 15%, we're in real trouble.

**Mr. Mike Colle:** I agree 100%. That's the biggest fear I have too.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Norris. Thank you, Mr. Colle. Thank you, sir. That was an excellent presentation.

**Mr. John Norris:** Thank you.

#### FAIR, ASSOCIATION OF VICTIMS FOR ACCIDENT INSURANCE REFORM

**The Vice-Chair (Mrs. Donna H. Cansfield):** Our next presenter is Ms. Rhona DesRoches, the board chair of FAIR, the Association of Victims for Accident Insurance Reform. Our leadoff, Mr. Singh, will be you. You have 10 minutes for your presentation, and then a rotation starting with Mr. Singh; 10 minutes for each. Would you please introduce yourselves for Hansard?

**Ms. Rhona DesRoches:** My name is Rhona DesRoches. I'm the board chair of FAIR. With me today is Tammy Kirkwood; she's vice-chair of FAIR. And this is Greg Smith; he's a member of FAIR.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. Please begin.

**Ms. Rhona DesRoches:** Thank you for having us. We wanted to talk about what happens when auto insurers rev up their lobbying machine and go looking for legislative and regulatory changes. Accident victims have been the ones blamed for Ontario's broken insurance system and for the allegedly skyrocketing fraud losses. Accident victims often bear the brunt of the endless failed fixes. This has to stop. These allegations of rampant, opportunistic fraud are themselves often fraudulent.

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The Insurance Bureau of Canada refers to FAIR as a "lobby group." This descriptor was clearly intended to undermine our credibility; being a lobby group, our position could be dismissed as one-sided or a narrow, self-serving view. The truth is, we are a not-for-profit consumer advocacy group for injured claimants on a shoestring budget.

I'd like to point out that the IBC itself is a lobby group. On the IBC website, the IBC describes its role as "anticipating opportunities to identify, shape and influence change in support of members' business needs" and "lobbying the federal and provincial governments to secure changes in public policy and in the business-operating environment that will benefit insurance companies." It is, in other words, a lobby group.

How much does this lobby group, the Insurance Bureau of Canada, receive from auto insurers each year to influence Ontario's auto insurance policy and legislation? How many millions of dollars of our high premiums are used by the IBC to malign claimants rather than assist them?

I want to draw your attention to our broken system of IMEs or independent medical examinations. These are the assessments that adjusters and arbitrators rely on to decide whether an accident victim is entitled to treatment and benefits. It's important that these insurer assessors come as advertised—that being "completely impartial" and "highly qualified"—since the Financial Services Commission of Ontario is prepared to have injured claimants fined \$500 if they refuse to submit to one of these assessments.

Many of Ontario's auto insurers use highly partisan assessors to wrongly paint claimants as malingering—judges have said so. Ontario auto insurers have repeatedly hired unqualified psychologists to paint brain-injured claimants as faking fraudsters—judges have said so. In doing so, they have undermined the integrity of the entire Ontario auto insurance IME system—judges have said so. Insurers are denying policy benefits to catastrophically injured Ontarians based on fundamentally flawed assessments. FSCO's own arbitrators have said so.

The president of the Canadian Society of Medical Evaluators wrote in a newsletter:

"Dear members and colleagues:

"We have all to realize that times are changing—amateurism, bias and fraud in the domain of IMEs will be

tolerated less and less in the future.... For those of you doing IMEs for years, it is time to notice this approaching shift: the cost of litigation, cost of automobile insurance and lack of quality control of IMEs, leading to public scandals, might soon lead the parties requesting IMEs to be more critical when ... appraising medico-legal credentials of an expert before hiring his/her services."

That was a quote from their newsletter.

These flawed, biased assessments by insurer-preferred vendors are the origin of the accusations of opportunistic fraud aimed towards injured claimants, accusations used to inflate our premiums while reducing benefits.

FAIR is opposed to auto insurance abuse and fraud, whether it be by claimants, treatment providers, preferred insurer medico-legal assessors, lawyers, adjusters, surveillors or anyone else. We dislike faking claimants even more than the insurers because the IBC lobbyists point to these fakers as justification to smear all injured claimants.

FAIR believes, as do the IBC lobbyists, that dishonest treatment providers and assessors should be punished. But unlike the IBC, we believe that dishonest or corrupt vendors of auto insurer medico-legal assessments or IMEs ought to suffer the same fate. We do not see any difference between opportunistic fraud in the form of falsely inflating the value of a claim by exaggerating injuries and impairments, and the opportunism of falsely deflating the value of a claim by dishonestly trivializing and minimizing serious injuries. These are flip sides of the same sort of abuse.

One of the impartial medical experts selected to come up with a more insurer-friendly definition of what counts as catastrophic injury has been described by FSCO's own arbitrators as part of a "dissident" group that has long sought to overturn established law on catastrophic injury. For 20 years, all manner of stakeholders have been lobbying politicians in an effort to shape the issue in a way that benefits their members, and this continued with the catastrophic injury panel, a panel that could not even agree that paraplegia and quadriplegia were a catastrophic injury.

Legislators need to listen to what the Ontario Court judges and arbitrators have to say about these assessments. Judges and FSCO—or Financial Services Commission—arbitrators are not lobbyists. They don't speak to the press, nor do they present to governmental committees such as this. They speak to us through their decisions. And who would know better than them?

I've included some case citations with the materials I'll be leaving with you, and you can always go to our website to see more examples on our IME page at fairassociation.ca.

Some stakeholders would like to downplay this problem, saying that these wrongful accusations of malingering and the denial of benefits are one-off mistakes. But, when one of the auto insurer's preferred vendors of psychological assessments in brain injury cases turns out, after having done over 1,000 insurer assessments, to be completely unqualified to do these assessments, that

should not be dismissed as a one-time mistake. One of the most preferred of all the auto insurers' preferred vendors of second opinions is the recipient of multiple, secret cautions from the College of Physicians and Surgeons for substandard assessments. He once told his licence body that all claimants are fakers. That's a pretty convenient spot to start for auto insurers' shopping for favourable second opinions.

Are accusations of opportunistic fraud, made by an insurance assessor who declares that all claimants are fakers, a sound basis on which to base the IBC lobby group's fraud-loss estimates? This assessor has done thousands of assessments for auto insurers.

The raw data for the IBC's most recent fraud-loss estimate is built up by counting up, one by one, the accusations of fraud made in insurer assessments the likes of these. If the assessments are flawed, substandard, unqualified, under-qualified, highly partisan or otherwise deficient, then the allegations of opportunistic fraud within them are unjust and a sham.

The question is this: When the insurers' lobbyist, the IBC, goes shopping for fraud-loss estimates, does it subtract the dollar value of all the allegations of fraud that, when finally scrutinized by triers of fact—judges and arbitrators—turn out to be completely bogus?

The IBC opportunistic fraud loss is only as good as the totality of the accusations of fraudulent malingering made by the auto insurers' preferred assessors.

The IBC complains about protracted litigation but doesn't acknowledge that the wrongful denial of legitimate injury claims is what's driving up premium costs and the high fees paid to insurer defence and plaintiff lawyers.

A lot of unnecessary costs to premium payers would be erased if auto insurers would honour the promise of coverage instead of playing the fraud card as a litigation defence tactic. There wouldn't be that long lineup of people waiting for hearings at financial services either.

We need to eliminate the rogue medico-legal assessors, on both sides, from the system and punish all dishonest treatment providers and all dishonest insurer assessors equally. The lobbyists want to criminally prosecute rogue treatment providers and assessors, but they want you to ignore the flip side of the problem with insurer-sponsored independent medical examinations.

Some of you may have seen the Insurance Bureau of Canada's lobbying efforts at the front door of the Ministry of Finance. The sign says, "New Session—Same Old Problems," and then proceeds to shape the problem as one that should be fixed on the backs of injured claimants. Making it harder to qualify for catastrophic injury treatment benefits is among the fixes.

We agree that legislators are faced with the same old problem, but we couldn't disagree more with the IBC lobbyists in terms of the nature of that problem. What we see is the same old insurer lobbyist tired and relentless fraud talk—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Ms. DesRoches, you have one minute left.

**Ms. Rhona DesRoches:** Okay. Let me leave you with this observation in terms of the same old, same old. The opportunistic fraud talk you're currently hearing is exactly the same old fraud talk that sparked the rate stability act, legislation brought in not long ago by the Conservative government. They bought into this myth of the omnipresent, malingering opportunist—hook, line and sinker. The promise then, as it is now, is that if you help us crack down on those elusive and mythical fraudsters, we will give you rate stability in return. How did that turn out?

For injured claimants, the more things change, the more they stay the same. Yes, we're into a new session and the same names we were being called that gave rise to the stability act, we are being called again today. The same lobbyists are once again pleading for you to make the changes based on allegations of fraud.

There comes a time when one must ask if we should listen to some different voices, because, clearly, insurers are out of their depth in terms of fixing our vexed auto insurance system. Maybe that's because accident victims aren't really the problem.

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**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, ma'am. We'll start our first rotation with Mr. Singh.

**Mr. Jagmeet Singh:** Thank you. You can finish that last sentence, what you were about to say, that maybe accident victims aren't the problem.

**Ms. Rhona DesRoches:** The savings realized by cutting back on all the litigation that begins with these shoddy insurer assessments would be enormous. Purging the rogue assessors and rogue provider assessors would result in lower premiums, and those inflated opportunistic fraud loss estimates that are trotted out by the IBC lobby group would disappear.

I was at the end line anyways. Just we deserve better treatment than this.

**Mr. Jagmeet Singh:** I thank you for your comments. I think it's very important to get the balanced view, to hear from the actual people and advocates for the people who are victims in this province. So thank you so much for that. I really appreciate that.

I want to talk to you a little bit about the same old, same old. Back in 2010, changes were made to the insurance industry regulations, and they resulted in significant slashing of the benefits that we receive. They cut the cap, which used to be \$100,000, for seriously injured people who weren't catastrophic to \$50,000, and they created another cap—that I'm sure you're well aware of—of \$3,500, and this was for the minor injury guideline. About 80%—these are industry numbers—of folks are now being funneled into this category, this minor injury guideline, and the cap is \$3,500.

We've seen, and the IBC admits, that they've saved \$2 billion year by year since this has been implemented overnight essentially in one of the most historic cost savings that we've seen in this province. Despite that historic cost savings and that billions of dollars of

savings, our premiums went up instead of down. It makes us start wondering, if we're saving the industry this much money and it's not bringing our premiums down, what should we do?

But just to get a human side to this, what are your thoughts on what happens to folks who get put into this MIG category, this \$3,500 category, and the fact that some of them who are improperly assessed can't really get out of it? They have to fight, and they never get out of it. What are your views on this, the minor injury guideline? For some folks I'm sure it's fine, but there's a number of people that probably have a different story to tell, and maybe you can tell us a little bit about that.

**Ms. Rhona DesRoches:** Well, I think you have to look at what a minor injury is. For instance, if a person were to hit their mouth on the steering wheel and break off a couple of teeth, already you're out of money. You've got \$3,500. Insurers are also using part of that \$3,500 to pay for IMEs or IEs, so it's actually less than that for a lot of people.

There was a decision that came out, I think maybe two weeks ago, *Scarlett v. Belair*. It redefines that the MIG, or the minor injury guideline, is exactly that, because I think insurers have been looking at it as a cap, that there was sort of a defined line that you didn't cross, and that that *Scarlett v. Belair* decision would change that. At least that's how I interpret it, and I'm not a lawyer.

I think there's hope in the past couple of weeks that insurers might be reassessing where they've put all of these people because 80% of people—for instance, if I break my arm, I'm not young, so I might have problems, and I might not be able to get enough physiotherapy at \$3,500. Someone who is 20 who breaks their arm or a teenager, that might be lots. So we're being shoved into a box to fit that \$3,500, and if you're an older person or a person who has other issues that existed before the accident, then you're really going to get shortchanged.

I think when you cut people off at \$3,500, they don't just go away. Accident victims don't disappear. We stop coming out of our house, but we don't disappear. We end up on public welfare. We end up using OHIP, all kinds of different public assistance programs. So the taxpayer pays anyway. Now the insurers have the \$2 billion, accident victims don't have that money anymore, and we're also paying through our social system.

**Mr. Jagmeet Singh:** It's a great point. It came up in a number of times when we were in earlier committee hearings, that shifting of the cost. It's not going to go away; the cost will get shifted on to the public purse. If the insurance companies aren't paying for or covering people who are injured, then the public system will have to take care of that, as in our health care system or other services, or their lives will be permanently—you know, that impairment will last forever, then. In some way or other, it's definitely going to cost the system or cost our society. I think it's a great point.

I'm going to ask one more question and then I'll turn it over to my colleague for another question. Those are the minor injury guidelines, and that's how they've im-

pacted some people. What about the other reduction, the \$100,000 to \$50,000? Do you have any stories or any examples of how that's impacted people and had a significant negative impact on their lives?

**Ms. Rhona DesRoches:** I actually brought two people with me today to speak. Ms. Kirkwood was actually injured within the last few years and can tell you what it actually cost to get better.

Tammy, if you're willing to speak.

**Ms. Tammy Kirkwood:** When you look at the injuries for a victim, those are ongoing. Those are forever. That's a lifetime job. I was injured back in 2008. I'm still in recovery; I'm still in therapy. That therapy costs me \$3,000 a month—just for my therapy. That's without the assessments or the IMEs or other doctors the insurance has tried to send me to. So that \$100,000, it doesn't cover.

Especially in the beginning of a recovery, you need those resources. You need that funding to recover.

**Mr. Jagmeet Singh:** It's often the case that the more care you put in right after the injury is going to determine how likely you are to recover. Is that what you've experienced in your—

**Ms. Tammy Kirkwood:** Very much so. The maximum recovery you can make is in the first two years. I mean, that is the ultimate. That's when my recovery really hit home.

**Mr. Jagmeet Singh:** Thank you for that.

I want to ask one last thing; I just want to make sure we get it covered off. You talked about this a number of times, and I want to make sure that we have your view on it—the independent medical examinations. Normally when you go to see a doctor, you can choose which doctor you want to see. You can choose someone whose work you trust, or who knows you well, or someone who's going to have your best interests in mind and be objective, but can tell you what—you know, to make you better. With respect to the independent medical examinations, you don't have any say whatsoever in who you choose, and their decision is going to really impact the way your coverage goes from that point forward.

What's your feeling on that approach, and do you think that approach works?

**Ms. Rhona DesRoches:** Ms. Kirkwood and I actually sat at the round table discussions for the CAT impairment. We have to do something about these pro-insurer assessors. You can't come out the other end in good shape if there's a level of dishonesty as a claim progresses. You have to have some sort of standard. Sitting around that round table, that's what really drove it home to me. I've always suspected there were no standards, but it drove it home.

Every IME assessor is using their own rules and their own parameters to write that report, and yet a person's quality of life into the future hinges on this report. We actually don't have anything in writing from the Financial Services Commission of Ontario or anywhere that will tell us, "Okay, you must test for this. You need to look for that." There's nothing in place. It's a huge

failure on the part of the Financial Services and it leaves accident victims at risk. That's my belief.

I think we need someone to set some standards, and I think the industry is actually willing at this point—at least that's what they're telling me, that they're willing to set the standards. But they need someone to point the way and they need the Financial Services to accept it.

**Mr. Jagmeet Singh:** Sure.

**Ms. Rhona DesRoches:** We need more communication, I believe, with the Financial Services.

**Mr. Jagmeet Singh:** Thank you. My colleague's going to have a quick question.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Mr. Singh, you have one minute.

**Mr. Jagmeet Singh:** Sure.

**Ms. Teresa J. Armstrong:** Oh, okay. Well, if you have anything left to say, you can go ahead. By the time I ask the question, it'll probably be over. Do you have anything else you'd like to add? Feel free.

**Ms. Rhona DesRoches:** Well, I think every accident victim who's been to an IME—they're not all bad. Sometimes I talk and I think that it comes off as if they're all bad; they're not. There's just a certain core percentage of these IME vendors. They make their living performing these IMEs, and I think when we set some standards, we need to use people to do these IMEs who actually are treating physicians, because then they're closer to the people. They have an understanding of the fallout from this—whereas if all you do is assess, it's a very limited and narrow point of view. That's one of the things that needs to change.

**Ms. Teresa J. Armstrong:** Thank you.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. Mr. Colle.

**Mr. Mike Colle:** I want to thank research for its list of definitions of acronyms. That's been very helpful. We're at 19 and I think we just got a few more today. So if we can keep going, "IMEs"—and I'm going to give you one, too.

Did you ever deal with the DACs in past history? I know we were told back at the turn of the century here that the DACs were the evil empire that had to be eliminated to save money and lower rates and all this kind of stuff. How do you compare the situation pre-DAC and post-DAC? DACs are designated assessment centres, are they?

1700

**Ms. Rhona DesRoches:** Yes.

**Mr. Mike Colle:** With all these IMEs, assessors were—

**Ms. Rhona DesRoches:** Well, I was actually injured in 1994, so I'm familiar with the DAC system. I've attended probably six or eight of them over time. I suppose the one thing that the DAC system had going for it was that there was sort of an oversight because the Financial Services did provide some place for you to at least pick up the phone and complain. I think that's probably one of the reasons that the Financial Services got out of the DAC business or the oversight of the

DACs: It's tacit approval. If you say that we're providing oversight, then you're somehow responsible when these things aren't up to quality. That's how I would read that.

The IMEs now, because there isn't even a loose guideline like there was with the DAC centres—there were, I think, parameters that they would operate in. That doesn't exist with these IMEs. There's no one telling anybody what to do, so it's a free-for-all. It's the Wild West, I've heard it referred to, and hired-gun assessors. It really does apply here because—

**Mr. Mike Colle:** You have all these assessors still taking place, making money—

**Ms. Rhona DesRoches:** Yes.

**Mr. Mike Colle:** —and basically there are more delays. It's assessor versus assessor, and there's no oversight either of the assessors.

**Ms. Rhona DesRoches:** A lot of this has to do with qualifications, whether the assessors have the right qualifications. I actually was unfortunate enough to have a bad DAC assessor. You could at least call the Financial Services, and they would tell you to call the college, and of course the college—whatever they would do is non-transparent; you'd never find out. The assessor continued on business as they liked—that sort of thing. But there was at least this sense of somebody taking mark and taking checks and balances about what was going on. It wasn't real, but there was this feeling of it anyway.

**Mr. Mike Colle:** The feeling that something was happening. And it was very lucrative to own a DAC.

**Ms. Rhona DesRoches:** Very.

**Mr. Mike Colle:** Very lucrative. The thing is, as you know, the NDP is saying, "We can solve a lot of problems in insurance by having this 15% reduction in premiums over the next year." Is that going to help you get better treatment and better protection?

**Ms. Rhona DesRoches:** I don't think it's the same question. I really think that we're paying a lot for insurance, and consumers are probably entitled to that 15% discount. We're just getting really lousy value for the money. As I said in my speech, if this estimate of fraud, which right now stands at \$1.6 billion, is based on these poor assessments—to give you a scenario, if I go to get assessed and the assessor says, "Oh, she's malingering or exaggerating her symptoms," do I become part of that fraud statistic? Because that's where all this money seems to be going. If we could take the \$1.6 billion that's supposedly lost to the fraud and put it back in the system, then we could have the 15% discount. We need to know where the money is going.

Now, I know the Auditor General has said that he was suspicious in 2011. He's coming back in June to take another look at the industry, and if he gets in there and picks at it deep enough and drills down, maybe we'll find out what that \$1.6 billion means and why the money isn't going to treatment. Because we have members, for instance, whose insurer will spend \$20,000 to deny \$6,000 worth of treatment. There's case law where they've spent \$175,000 to deny \$20,000 worth of treatment.

**Mr. Mike Colle:** So you support the 15% reduction in a year?

**Ms. Rhona DesRoches:** I support fixing it and, along the way, it would be nice to have the 15%, but if all we're going to do is say, "Okay, 15%. Everybody go away. Everybody happy"—not working.

**Mr. Mike Colle:** Then you don't fix the mess.

**Ms. Rhona DesRoches:** You have to fix the mess because this problem with IMEs would go right through to a public system. It has been there the whole 20 years I've been watching. It'll be there in 20 unless we address it.

**Mr. Mike Colle:** Yes. The other question—and it's really a comment. I think you've sort of hit the nail on the head. The very DNA of the system right now is sort of set up to be very, very heavy on litigation, confrontation, denial and finger pointing. You know, there's fraud and there are false claims. I think what you're trying to say is that we need to look at what creates this confrontational, expensive system we have here in Ontario and how to get rid of that confrontation. Because I think if we get rid of all the very wealthy people doing assessments all across Ontario around the clock, as they have been—it seems to be very lucrative; if we get rid of all the lawyers who are making—not all lawyers, but I'm sure there are many lawyers—making good money on slips and falls and accidents etc.; and if we get rid of all the insurance companies who spend their time trying to confront the claim, and things are done quickly—you've got a claim, we assess it, an independent person comes in and says, "Yes, you're right. Here's your cheque"—I think we would probably save a heck of a lot of money, aggravation, time. But yet we've got this system built up with all these sorts of silos that fight each other. And then you've got the auto collision and the tow truck industry silos—you know, everything is sort of in a confrontational mode.

Do you agree with me that maybe what we have to do is look at the DNA of auto insurance in Ontario and get rid of this basically confrontational platform that exists here?

**Ms. Rhona DesRoches:** I would agree with you 100%. I think we need to start with these IMEs, because it's that that sparks all of this. That's where it starts to blow up, because you've got the person who's injured and they get a report, and some of these reports are so flawed—I mean, if it wasn't so sad, you would laugh, they're so flawed. Immediately, the claimant says, "I've got to get a lawyer. I've got to fight this because I need the treatment," and then the insurer digs in their feet. It snowballs into huge legal fees and usage of the system, and it's resulted in this big lineup. Some 28,329 people last year had to apply for mediation or arbitration—

**Mr. Mike Colle:** Yes, meditation hell, purgatory.

I can't seem to get this idea of mine across. I've been trying for a long time, saying, "Listen, is it possible that we could, in all the intelligence we have in government and all these wonderful lawyers and insurance companies that are here and these legislators, basically appoint or

authorize, certify, medically approved and sanctioned assessors who are given the authority to assess people and not second-guessed—and not on the basis of the number of clients you get and the calls you get from the insurance companies and the lawyers etc.; that these independent assessors—which, in a way, DACs were supposed to be, and I don't want to have the DAC repetition. So you would have these very qualified, independent medical people who get right in there, look at the claimant and say, "Listen, here's what's to be done. You can get this done right away. Proceed." Is that something we should maybe look at?

**Ms. Rhona DesRoches:** I think so, yes. I think we have to maybe narrow down the choice of the physicians or the assessors. FAIR has put out in the public, in open letters—we have proposed three different ways to clean up the system. One is the three-strikes rule, which is that if a professional witness who's an IME provider—if they have commentary about them from the arbitrators or judges that is negative and talks negatively about their poor quality report, three strikes, you're out: no more testifying, no more of these IMEs. I think that's pretty clear.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Mr. Colle, you have one minute.

**Mr. Mike Colle:** Okay, and I'll look at those—I've looked at them already—but I just want to make another observation here. Right now, we are caught between a rock and a hard place. We are told that all of our problems are because of fraud—fraud, fraud, fraud, as long as I can remember. And then the other bogeyman is the rate, your premium: Your premium's too high. So if we get rid of fraud, and if we can lower your premiums, that would be great. So I think we've got to find something that doesn't have these magic bullets of getting the fraudster and lowering the premiums to where—I don't know to what level people will ever be happy, because it's never going to be enough. Maybe we need to get to a sane middle ground here that says, "It's not about fraud. It's not about premiums. It's about protecting injured people and giving them the accident benefits they deserve in a quick, timely and just way."

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Colle.

**Mr. Mike Colle:** Sorry for the speech.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Ms. Scott.

**Ms. Laurie Scott:** Thank you very much for appearing today. I think you appeared last time that we were—

**Ms. Rhona DesRoches:** Several weeks ago, yes.

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**Ms. Laurie Scott:** Okay, several weeks ago. I was going to ask—Greg, I don't want to single you out, but I just didn't know if you wanted a chance. I know your case is in the handout that was given to us. But do you have anything to add? It's a terrible story and it is repeating maybe a little bit of what we heard of the frustrations within the system, but do you want to add anything from your personal story where you saw back-

logs, delays, or anything that you want to add from what you had experienced?

**Mr. Greg Smith:** I waited two years to go to mediation and then almost another three years to get to arbitration.

**Ms. Laurie Scott:** And in the meantime, tell me what you needed in those years.

**Mr. Greg Smith:** What we were going to mediation for were my income replacement benefits and employment retraining. In the job I did, I travelled all over Ontario. I was a self-employed consultant. I drove 100,000 kilometres a year, and I can't do that anymore. They had three doctors who said there was nothing wrong with me. A psychologist said that I could return to my job and drive 100,000 kilometres.

**Ms. Laurie Scott:** So you had no chance for any appeal.

**Mr. Greg Smith:** Well, I had to go to mediation.

**Ms. Laurie Scott:** And?

**Mr. Greg Smith:** The mediation lasted 15 minutes. They changed the adjustor twice just before mediation. We had a mediation appointment set. They changed the adjustor three days before mediation. When we got to mediation, she said, "I've just been put on this case. I have no idea what's going on." So the mediator said, "Will you people give them some time?" I said, "I've already waited a year and a half for this." The adjustor said, "Well, then, Mr. Smith, we're going to stick to our guns. We're not going to give you retraining, so you'll have to go to arbitration."

I waited almost three years to go to arbitration. Three days before arbitration, after three months in negotiation, we settled out of court.

I bought the million dollars extra of rehab benefits. You talk about \$3,500? I never got to spend hardly any of that. I used about \$120,000 for rehab. They spent just over \$50,000 in IEs on me.

I had back surgery last May. Three days before I had to go in for back surgery, I received a letter from the insurance company to go—I had a back surgeon do my back. They sent me a letter to say that they wanted me to go to a general practitioner to see whether I needed back surgery.

**Ms. Laurie Scott:** Wow. If there was more—I don't know how we could do it—peer review, say, the medical practitioners: I used to nurse before, and really, there's expertise. You need a back surgeon to do back surgeries, that type of peer review. Do you think that that would help the system, more peer review assessments for assessors?

**Mr. Greg Smith:** We were talking about having guidelines. I went in for one IE where the doctor never laid his hands on me and refused the treatment plan. When I found out about it about 10 days later, I went back to his office and made a bit of a scene, made him put his hands on me, and then he sat there and said, "I don't know what I'm going to do. I've got to change what I wrote on that piece of paper."

**Ms. Laurie Scott:** Do you feel that's a rush for time, or these doctors want to be involved in the process, or they're—

**Mr. Greg Smith:** He had three and a half hours allotted for my IE.

**Ms. Laurie Scott:** Really? The first time he saw you, where he didn't lay his hands on you. And how long were you in there?

**Mr. Greg Smith:** Three and a half hours.

**Ms. Laurie Scott:** And he never laid his hands on you.

**Mr. Greg Smith:** He never laid his hands on me.

**Ms. Laurie Scott:** Okay. That's kind of unexplainable in some way, but yes.

The backlog was mentioned several times. Do you feel that other types of mediators are how to un-jam that system? Because right now—I mean, from many figures, I think there are roughly 17,000, 14,000 in backlogged cases, so their cases are going to have similar waiting times.

**Mr. Greg Smith:** There used to be a rebuttal process. It wasn't great because, again, my treater would put forth a treatment plan. If they didn't agree to it, then they would send it to an outside person to review my treatment plan, write a report and it would go back to my physician and they would have a chance to rebut it. But it would go absolutely nowhere because it was just one against the other.

There aren't any guidelines, so if Joe Blow looks at me and says—my family doctor says, "Greg, yes, I agree you should go for massage therapy or acupuncture," then I think somebody who's known me for 21 years versus somebody who's met me for three hours—I think the guy who's been around for 21 years pretty well knows me.

So, by just saying that we need to put more people in mediation, it just seems like, right now, that's the way the insurance companies are getting rid of the problem for the time being. And in that time, you get no treatment.

**Ms. Laurie Scott:** Yes, that's unacceptable.

**Mr. Greg Smith:** Then, if, for whatever reason, they say, "Oh, we're going to give you treatment," if you miss three months, it takes six months to get you back to where you were when they cut it off. I had a million dollars—actually, \$1.1 million, because it was \$100,000 at that time.

**Ms. Laurie Scott:** Yes. These stories—that's why I wanted to get more of your stories on it. It is quite unacceptable, the process that's gone on.

Now, I know that catastrophic—there has been a definition, and our main guy on insurance, Mr. Yurek, had to leave. But there is a redefinition out there of catastrophic, I believe, by someone, and that's what I just don't know. I don't know if you have had the opportunity to see it.

**Ms. Rhona DesRoches:** I have seen the panel recommendations, the superintendent's report on that, and that's what we talked about at the round table, and it was very, very disturbing, partly because I think the consensus of the room at that round table conference was

that none of it was acceptable. There really wasn't anything in there worth saving.

**Ms. Laurie Scott:** So no one at that round table—

**Ms. Rhona DesRoches:** No.

**Ms. Laurie Scott:** Really?

**Ms. Rhona DesRoches:** So when I see signs like what I'm seeing outside the door of the Minister of Finance saying that we need to get a new definition of catastrophic injury—it's 600 people a year. They're the worst injured of all of us. Why would we ever want to cut their benefits? I think the reasoning behind even proposing that is that they want to give you first \$50,000 and then you can reapply. In other words, it's kind of like how the old insurance was, whether it's \$25,000—no questions asked. If you're said to be catastrophic, you have \$50,000, and when you've used that up—and there's no actual timeline there—you can ask your insurer for more. Okay, well, there's nothing fast in our insurance system except the denial rate. So you drop off, and because we're talking about people who are brain-injured or people who would need attendant care—I don't know why they wouldn't just pay these things and not put that stopgap in there. I think that helps insurers, and people will fall in that gap and they'll never recover—because if I had a brain injury, I'd want to keep going to be the best I could be.

**Ms. Laurie Scott:** Jim McDonell has a question there, so I'll stop.

**Mr. Jim McDonell:** One question: You're having to go through the insurance system because of an automobile accident. Do you find that you'd be treated better if you had just hurt yourself at home and you went through the normal public health system? Is this a deterrent?

**Ms. Rhona DesRoches:** I wouldn't call it a deterrent, but it's apparent to me—and it's as true now as it was when I was injured, which is that because it's such an adversarial system, you lose the focus which should be entirely on, "I've got to get better. I've been injured. What can I do to get better?" Because you have all the adversarial stuff going on around you between your insurer and your injuries and everything, your focus doesn't stay on that. It goes to proving the injury, and this is very, very common. When you talk to accident victims, this is often what I'm hearing.

You can't get that injured running and hitting the wall in the kitchen. So people get diverted from the path, which should always be to get better, maximize your recovery and move on as best you can with your life. Tammy is very much a sample of that. That direction gets lost because your insurer fights you so hard. People are devastated. I think they're psychologically damaged from actually navigating through a claim.

**The Chair (Mrs. Donna H. Cansfield):** Thank you very much for your presentation.

That concludes this meeting. We are adjourned.

*The committee adjourned at 1720.*







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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Monday 29 April 2013

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Lundi 29 avril 2013

*The committee met at 1413 in room 228.*

**The Chair (Mr. Bas Balkissoon):** We'll call the meeting to order: the Standing Committee on General Government, Monday, April 29.

## SUBCOMMITTEE REPORTS

**The Chair (Mr. Bas Balkissoon):** We have the report of the subcommittee on committee business dated April 22. Mr. Bartolucci.

**Mr. Rick Bartolucci:** Okay, we're going to do the short one first. I think that's what we've agreed on.

Your subcommittee on committee business met on Thursday, April 18 and on Monday, April 22 of this year to consider the method of proceeding with the review of the Aggregate Resources Act, and recommends the following:

(1) That the committee Clerk send a letter to each House leader requesting that a motion be brought forward in the House authorizing the committee to continue the review of the Aggregate Resources Act begun in the first session of the 40th Parliament; and

(2) That the committee Clerk, in consultation with the Chair, be authorized, prior to the adoption of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

**The Chair (Mr. Bas Balkissoon):** Questions, comments, debate?

Ms. Jones?

**Ms. Sylvia Jones:** Unless I missed something, on Thursday in the House unanimous consent was given for your first point about the ARA review; is that right?

**Mr. Rick Bartolucci:** Right.

**The Chair (Mr. Bas Balkissoon):** Yes.

**Ms. Sylvia Jones:** Okay. So that's part's done. So we're voting on something that has already happened.

**Mr. Rick Bartolucci:** No, not really. We're reporting the committee's finding.

**The Clerk Pro Tem (Mr. Trevor Day):** Part 2 actually said I had permission to go ahead prior to the adoption of this report and write to them. So we did. It would mean a lot to me if you would pass this now, saying that I had the permission to write to them to make all that—

**The Chair (Mr. Bas Balkissoon):** It's a technical, logistical problem.

**Ms. Sylvia Jones:** Oh. So if I want to make—all right; I'll stop.

**The Chair (Mr. Bas Balkissoon):** I'm sure you're in support of the Aggregate Resources Act.

Any other debate? All in favour? Mr. Colle?

**Mr. Mike Colle:** Not now.

*Interjections.*

**The Chair (Mr. Bas Balkissoon):** That's the next one.

All in favour? Carried.

Okay. The next item is the report of the subcommittee on committee business dated Wednesday, April 24. Mr. Bartolucci.

**Mr. Rick Bartolucci:** Thanks very much, Chair.

Your subcommittee on committee business met on Wednesday, April 24 of this year to consider the committee's schedule, and recommends the following—and there are 11 of them:

(1) That the committee meet on Wednesday, May 1, and Monday, May 6, 2013, for the purpose of public hearings on the auto insurance study.

(2) That the committee Clerk, with the authorization of the Chair, post information regarding public hearings on the auto insurance study on the Ontario parliamentary channel, the Legislative Assembly website and Canada NewsWire.

(3) That witnesses be scheduled in accordance with the previous practice of the committee regarding the auto insurance study.

(4) That the Chair seek the authorization of the House to meet outside of the committee's regularly scheduled meeting times on Wednesday, May 8, and Monday, May 13, 2013.

(5) That, subject to the authorization of the House, the committee meet on Wednesday, May 8, and Monday, May 13, 2013, in Durham and Hamilton for the purpose of public hearings on the traffic congestion study.

(6) That the committee Clerk, with the authorization of the Chair, post information regarding public hearings on the traffic congestion study on the Ontario parliamentary channel, the Legislative Assembly website and Canada NewsWire.

(7) That witnesses be scheduled in accordance with the previous practice of the committee regarding the traffic congestion study.

(8) That the committee meet on Wednesday, May 15, 2013, for the purpose of considering Bill 11, An Act to

amend the Ambulance Act with respect to air ambulance services.

(9) That, subject to its referral from the House, the committee meet on Monday, May 27; Wednesday, May 29; Monday, June 3; and Wednesday, June 5, 2013, for the purpose of report writing on the review of the Aggregate Resources Act (ARA).

(10) That, subject to its referral from the House, the research officer provide the committee with all outstanding research documents on the previous review of the Aggregate Resources Act by Monday, May 20, 2013.

(11) That the committee Clerk, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

**The Chair (Mr. Bas Balkissoon):** Mr. Colle, I understand you have an amendment?

**Mr. Mike Colle:** Yes, I have a motion to strike out parts 4 and 5 and replace it with, "That the committee meet on Wednesday, May 8, and Monday, May 13, 2013, in Toronto for the purpose of public hearings on the traffic congestion study."

Do you want me to explain it?

**The Chair (Mr. Bas Balkissoon):** Everybody have a copy?

**Mr. Mike Colle:** Do you want me to speak to it?

**The Chair (Mr. Bas Balkissoon):** Let's just get it around first.

Okay. Comments, Mr. Colle?

**Mr. Mike Colle:** Yes, just briefly: I know that in the subcommittee we discussed this in an attempt to get out and do some travel on days the House is sitting, and we thought we would try to go east and west. The suggestion is here that perhaps on those days we could invite people really from the western part of the GTA, Hamilton, and the east, Durham and beyond. If they could partake, with an emphasis that they could partake in these committee hearings by teleconference with that invitation, we'd do that by being here, rather than trying to get out there when the House is still sitting, which could be problematic.

1420

**The Chair (Mr. Bas Balkissoon):** Further debate?

**Mr. Rosario Marchese:** Could I propose—the idea was to ask the House leaders to see whether they would approve us travelling. Could we not say that we would ask for approval to travel on those two days and, failing that, that we would then have our work here at Queen's Park and do it by teleconferencing to the extent that we can?

**Mr. Mike Colle:** Yes.

**Mr. Rosario Marchese:** We could proceed with the request that we had made and hope that the House leaders agree, and if there's disagreement, then we—

**The Chair (Mr. Bas Balkissoon):** Can I allow the Clerk to comment on that?

**Mr. Rosario Marchese:** Sure.

**The Chair (Mr. Bas Balkissoon):** Because I think that discussion did take place, and logistics might be a problem.

**The Clerk Pro Tem (Mr. Trevor Day):** Prior to the amendment, we were trying to figure out how we were going to work this. Should this subcommittee report pass, we'd be sending a letter immediately to the House leaders saying, "We need permission."

However, for scheduling purposes, we could make sort of temporary arrangements, but we would need to hear back by Thursday afternoon by the absolute latest, to really make this happen. Advertising, in the meantime, would be void of location—"The committee intends to meet on these two days"—and we would tell people, when they call in, what the current situation is and what we're awaiting.

**Mr. Rosario Marchese:** Could we not, each of our caucuses, engage our House leaders and let them know right away so that they could get together and solve this ASAP? We could all undertake to do that?

**The Chair (Mr. Bas Balkissoon):** I have Ms. Cansfield and then Ms. Scott.

**Mrs. Donna H. Cansfield:** Well, actually, the House leaders would have to meet together because they all have to agree.

**Mr. Rosario Marchese:** No, I understand.

**Mrs. Donna H. Cansfield:** Meeting independently—I mean, you could do that, but they still ultimately have to meet, so that means it has to be scheduled, and the budget is on the 8th. I really don't see going to Durham or wherever it is you want to go—I don't think that's going to happen.

*Interjection.*

**Mrs. Donna H. Cansfield:** Sorry. Because of the budget, there will still be discussions going on in the House; that's what I meant. The budget will come down on the 2nd, which is a Thursday. Then on the Monday, there's going to be just the one, presumably, discussion by the Leader of the Opposition. Then the House collapses, and then we start debate or whatever. It makes no sense, personally, to do this.

**The Chair (Mr. Bas Balkissoon):** Ms. Scott?

**Ms. Laurie Scott:** I agree with what Ms. Cansfield has just said about the budget and the travel. I think that it's wiser—I know some members aren't going to like this—that we fall back to constituency week, if we could, for travel. It just makes more sense. We know we're not here. We don't know when the votes are for the budget. We don't know when the discussion times or debate times are.

It's Hamilton and it's Durham, so I don't know who is travelling with what committees, but it's not too, too far away. It's not like going to northern Ontario for constituency week, where you've got to do the night-before travel.

*Interjections.*

**Ms. Laurie Scott:** Anyway, I'm just scared to get locked into a date. We don't know for sure with the budget and the timeline that it's in, so I would prefer not

to be locked into the dates that were recommended before, because they might change, and it does have to go to House leaders for this discussion about travel at all. I'm scared to get locked into dates.

**The Chair (Mr. Bas Balkissoon):** Plus we're trying to do a lot: aggregates, plus transportation.

**Ms. Laurie Scott:** Oh, God, yes.

**Mr. Rosario Marchese:** So the suggestion is that we get approval to meet during constituency week? Is that what you were saying?

**Ms. Laurie Scott:** Yes, to travel during constituency week is what I would recommend, but—

**Mr. Rick Bartolucci:** Excuse me, Chair. So are you amending the amendment to say let's remove (4) and (5) and put in a request—excuse me—to move that numbers (4) and (5) be struck out and replaced with a general ask that we travel on constituency week? Is that what you're saying? Do you have to make that amendment to the amendment, or—

**Mrs. Donna H. Cansfield:** Yes.

*Interjections.*

**The Chair (Mr. Bas Balkissoon):** Let me check with the Clerk, because if we want to do it constituency week, do we still have to ask the House leaders?

**Mrs. Donna H. Cansfield:** We still have to have agreement.

**The Clerk Pro Tem (Mr. Trevor Day):** Basically, what we have here is that the original subcommittee is on the floor. We have an amendment to strike (4) and (5) and replace with something. If you're going to amend that, then the "something" that we would replace it with, instead of "here in Toronto on the 8th and the 13th," would be two days—

**Ms. Sylvia Jones:** Two days of committee travel—

**The Clerk Pro Tem (Mr. Trevor Day):** Two days of travel during the upcoming constituency week. So you would be amending the amendment to pull out everything after "on Wednesday, May 8." It would meet during two days; that was it. It's not even Toronto. So, "the purpose of public hearings on study" would be—everything in the middle there—"The committee would meet"—you would strike out "on Wednesday, May," and it would be "for two days during the constituency week."

**Mr. Rosario Marchese:** Do we have a backup plan in case that doesn't work?

**The Chair (Mr. Bas Balkissoon):** Then it will be June.

**The Clerk Pro Tem (Mr. Trevor Day):** Okay. Any debate on the now amendment?

**The Chair (Mr. Bas Balkissoon):** Just a second. Ms. Campbell had her hand up.

**Ms. Sarah Campbell:** Can we possibly have a five-minute recess? I don't want to draw out proceedings. I'd just like a five-minute recess on this.

**The Chair (Mr. Bas Balkissoon):** No problem. We're recessed for five minutes. We'll reconvene at 25 to three.

*The committee recessed from 1426 to 1429.*

**The Chair (Mr. Bas Balkissoon):** Ms. Campbell, do you have a comment or shall I proceed?

**Ms. Sarah Campbell:** No, I'm fine, thank you.

**The Chair (Mr. Bas Balkissoon):** Okay. Ms. Jones, you have a correction.

**Ms. Sylvia Jones:** No, I can't do that yet.

**The Clerk Pro Tem (Mr. Trevor Day):** We've already got two on, so we've got to work our way backwards.

**The Chair (Mr. Bas Balkissoon):** All right.

**Mr. Rick Bartolucci:** We're voting on the amendment to the amendment?

**The Clerk Pro Tem (Mr. Trevor Day):** Yes, so Ms. Jones has moved that we strike out that.

**Ms. Sylvia Jones:** But you don't want that until after we vote on the other parts, right?

**The Clerk Pro Tem (Mr. Trevor Day):** That's right.

**The Chair (Mr. Bas Balkissoon):** Are we taking it as a friendly from Mr. Colle? Is he accepting?

**The Clerk Pro Tem (Mr. Trevor Day):** We've got to work our way backwards.

**The Chair (Mr. Bas Balkissoon):** We'll take the amendment to the amendment by Ms. Jones, and it reads—

**The Clerk Pro Tem (Mr. Trevor Day):** By Ms. Scott.

**The Chair (Mr. Bas Balkissoon):** Ms. Scott, sorry—to strike out everything between "meet" and "for" in the motion by Mr. Colle, to change it to read "for two days during the constituency week." All in agreement? Carried.

Now we'll vote on the amendment itself, as amended. All in favour? Carried.

Now we're going to take the subcommittee report. Ms. Jones.

**Ms. Sylvia Jones:** Chair, I would like to make an amendment. I move that point 10 be amended to change the date to Tuesday, May 21, because Monday, May 20, is Victoria Day, so that's a holiday.

**The Chair (Mr. Bas Balkissoon):** Everybody heard the amendment? All in favour? Carried.

Ms. Scott, you had something you wanted to ask?

**Ms. Laurie Scott:** I do have a question. On point number 1, it says, "That the committee met on Wednesday, May 1 and Monday, May 6, 2013, for the purpose of public hearings on the auto insurance study." I was thinking that that was report writing, but it is public hearings? I just want to clarify that.

**Interjection:** Yes.

**Ms. Laurie Scott:** So notice has already gone out, right? Because it's this week. Okay. Just originally, I had thought it was report writing, so it's not report writing. That's cool. I just wanted to clarify that. That's cool.

**The Chair (Mr. Bas Balkissoon):** Okay. The subcommittee report, as amended—

**Mr. Mike Colle:** Just one point of clarification here: During constituency week, this committee is going to meet three times?

**The Clerk Pro Tem (Mr. Trevor Day):** Two.

**Mr. Rosario Marchese:** No, just the two dates.

**The Chair (Mr. Bas Balkissoon):** No, two dates.

**Mr. Rosario Marchese:** Hearings. We're going to have it here and—

**Mr. Mike Colle:** No, but then the aggregate resources—

*Interjection.*

**Ms. Sylvia Jones:** That's just so we have it over the constit week.

**Mr. Mike Colle:** Oh, we're going to receive it. Okay.

**The Chair (Mr. Bas Balkissoon):** Okay. Can I take the standing committee report, as amended? All in favour? Carried.

Before we adjourn, we have some information from the research officer.

**Mr. Jerry Richmond:** Thank you, Chair. I've distributed a background memo. I will change the "Monday, May 20" after the fact.

What the memo does is it sort of tries to bring everyone to the same page. It gives you a brief synopsis of what we did before. You see on page 2—I won't read all this into the record—it reviews what went on when we dealt with the ARA before, the motion and the eight days of hearings and what have you.

Page 3 brings you up to date with respect to the motion that was passed in the House last Thursday.

The next section, "Key documents," gives you a sense of some of the key documents that we will be preparing. Some of them you've seen various versions of before, but we have to bring them up to date and add various aspects of what went on in the previous consideration.

The next section is "Existing background documents." What I've done there—I don't know what the full membership is going to be when we get into the ARA, so what I've done is outlined what I use—and I was generous. I didn't include everything—this is sort of my background file—but I pulled out some of the key things that you may want to have at your fingertips. If some of the links don't work, you can call my office and we can provide the documents to you, but you probably don't need them now; we need them in three weeks when we get into the report writing discussion.

Some of the key things are the ARA itself. On the first day of hearings, the MNR distributed a very useful set of slides. They gave a presentation subject to being invited, and I think that that package of slides, overheads—it's about 20 pages—is a very good synopsis, with maps and tables of the current administrative framework that MNR exercises to administer the ARA.

One of the issues was aggregate recycling. The current act does not make provision for it, so I reviewed some of the issues that were raised in the last set of hearings. Ms. Jones recently introduced a private member's bill on the matter, so that's flagged there. During the previous set of hearings, I made reference to—because some of you have not actually been involved around the Leg here in a committee writing process—the report of the alternative fuels committee, which I had a major hand in writing. I don't collect royalties, though. But anyway, I really think

in all sincerity that that report is a very good model. There's a link provided.

The committee, of course, was an all-party committee, and we reached—"we" I'm using more with reference to the parties and the committee members. We worked very hard to reach consensus. There were 141 recommendations, and they were all unanimously agreed to. We did, in camera, engage in some pretty intense debates, but we did reach a consensus viewpoint. There are 141 recommendations in that report. I think they've had a major influence in the intervening 10, 11 years on government policy in the field of renewable energy.

That's an example of a report where I submit that the committee process was very useful and successful, and it has had an influence on government policy. I would presume that the committee wants to do the same with aggregate. If you have questions—

**The Chair (Mr. Bas Balkissoon):** Ms. Jones.

**Ms. Sylvia Jones:** I think this is great. In terms of the existing background documents, I'd also like to suggest that you include the sections of the Planning Act particularly related to the provincial policy statements. I think that in terms of framing our discussion, that would be helpful for members to have.

**Mr. Jerry Richmond:** And the ministry, I think, has come out with an updated version of the provincial policy statement.

**Ms. Sylvia Jones:** Yes.

**Mr. Jerry Richmond:** So I can make that available to you.

**Ms. Sylvia Jones:** Thanks.

**The Chair (Mr. Bas Balkissoon):** Further comments? Mr. Marchese.

**Mr. Rosario Marchese:** I think Jerry's suggestion of looking at the alternative fuel sources report is a good one, and I think it might be useful for us all to look at. I'm going to be looking at it. Thank you, Jerry.

**The Chair (Mr. Bas Balkissoon):** Mr. Colle.

**Mr. Mike Colle:** I just think it might be—is it possible, even before the 20th or whatever it is, or even on the 20th, to give us sort of the key decision-making points, where we're going to have to—like on tipping fees—not tipping fees but the—

**Ms. Sylvia Jones:** Levy.

**Mr. Mike Colle:** —levies.

**Mr. Rosario Marchese:** The levy. Yes, the fees.

**Mr. Mike Colle:** About the framework on that. That's obviously one thing—recycling is another area of serious consideration—about protecting farmland. If we can get that framework about key decision-making points, we might get focused a little sooner, because there's just so much material, especially for some of the new members. If we get started in those areas, we can get to the crunch of the review and the report. And then is it possible—when you did the alternative fuels, there was no minority report or dissenting—they agreed on everything? Okay. I was just wondering, in many of these reports, there's always a minority report or—no?

*Interjection:* No.

**Ms. Sylvia Jones:** No, there wasn't one—

**Mr. Rosario Marchese:** He's saying it's some. There are, but—

**The Chair (Mr. Bas Balkissoon):** If you work on consensus, there wouldn't be.

**Mr. Jerry Richmond:** From a staff perspective—and all the members of that committee, three of whom still sit in the House. You can chat with those fellows. I have to say that the committee—we made a very serious effort to come up with a consensus report. Some of the members, Mr. Gilchrist, whom you might remember—

**Mr. Rosario Marchese:** Yes, we do.

**Mr. Jerry Richmond:** —Mr. Bradley, Ms. Bountro-gianni—we had some pretty prominent MPPs, and—

**Mr. Mike Colle:** You're saying we're not prominent and they were?

**Mr. Jerry Richmond:** Of course, you're very prominent.

The committee and the members—the Chair was Dr. Doug Galt, who was a veterinarian. The committee made a very serious effort to reach consensus, and we did. Behind the scenes, we had some lengthy debate, but we managed to reach—by we, I mean the committee; we, as staff, of course followed the committee's directions—complete consensus on 141 recommendations.

1440

**The Chair (Mr. Bas Balkissoon):** Mr. Marchese?

**Mr. Rosario Marchese:** I agree. If we can come to consensus on this report, I would prefer it, and hopefully we can.

Jerry, I think you've got a good sense of some of the major items we're going to be dealing with, right? Otherwise, we could sit as a subcommittee in advance and talk about those major themes, but I suspect Jerry is going to do that.

**Mr. Jerry Richmond:** In response to Mr. Colle's point, I'm going to be away on vacation the next week and a half. The arrangements were made long before the ARA resurfaced.

But what I will be able to do is flag the key issues. I would prefer to do that when we finish the complete summary. Before I walk you through that, we had a summary in the last round that covered half of the hearings. Because of the prorogation we didn't complete that work because we were given direction to cease and desist, but we will have before you in a few weeks a complete summary. I'm prepared, before we get into that, to highlight and walk you through some of the key issues.

**The Chair (Mr. Bas Balkissoon):** Ms. Jones?

**Ms. Sylvia Jones:** Yes, I would like to stick with—the reason we asked for Jerry's info for a week during constit was so that we all individually would have that opportunity to study and pull out the stuff that we had heard. Obviously, for new members, there's going to be a lot of background material, but I'm confident that you will see some consistencies—when it's compiled—about what we heard. I'd like to actually not presuppose any outcomes in terms of what we want to focus in on, and allow you to do that compiling first.

**Mr. Jerry Richmond:** I think once we see who the new membership is, who will be assigned, I'm certainly willing to help the new members get up to speed. I think some of the other members who were heavily involved in the previous hearings can also do that too. I think we'll be in pretty good shape.

**The Chair (Mr. Bas Balkissoon):** Okay. Trevor has some input.

**The Clerk Pro Tem (Mr. Trevor Day):** Sorry, not on this; on another issue. Last meeting, in terms of the auto insurance, we were going to kick whether or not to invite GISA to the subcommittee, and we didn't cover it in subcommittee.

*Interjection.*

**The Clerk Pro Tem (Mr. Trevor Day):** GISA.

**The Chair (Mr. Bas Balkissoon):** An organization.

**The Clerk Pro Tem (Mr. Trevor Day):** We just didn't cover it in subcommittee. It was one of those things.

**Mrs. Donna H. Cansfield:** So take it back to the subcommittee, and let them decide. It shouldn't be decided—

**The Chair (Mr. Bas Balkissoon):** Do we have the date set for the hearings?

**The Clerk Pro Tem (Mr. Trevor Day):** That's fine. That's not a problem.

**Mrs. Donna H. Cansfield:** But if I could: At subcommittee, then, there should be the opportunity, because the idea was that there were two different perspectives based on two different analyses of actuarial and data collection, which are two different perspectives, and both of the folks should be invited back so we don't have a distorted perspective on the data.

**Mr. Rosario Marchese:** Sorry. Could you repeat what we had asked them to do?

**The Clerk Pro Tem (Mr. Trevor Day):** Last time we were meeting on auto insurance there was a suggestion that we invite GISA to come before the committee. At that time, the committee said, "You know what? We'll let the subcommittee deal with it, and we'll put it off."

The subcommittee did meet. I didn't raise it with the committee. We are meeting again on auto insurance for two days, but a decision has not been made in that vein, whether or not to invite them.

**Mr. Rosario Marchese:** Sorry. We're continuing with the hearings and we have a list of people. I think we should just leave it that way.

**The Clerk Pro Tem (Mr. Trevor Day):** Okay. Well, that was just for the committee. It was something that was overlooked in subcommittee.

**Ms. Laurie Scott:** Do we have room in those two days that are coming up this week for witnesses on auto insurance?

**The Clerk Pro Tem (Mr. Trevor Day):** As it is right now, the first day, because it's 40 minutes a thing, we have people to fill the first day. The second day would depend on who's responding.

**Ms. Laurie Scott:** Okay. Well, I'd just like to get back to our point person on your question, and then—

how can we do it? Do we have to have a subcommittee meeting? Can we just do it by phone? I guess we're all here anyway. We could just have a quick—

**The Clerk Pro Tem (Mr. Trevor Day):** I can send out an email and just poll the subcommittee as to—

**Ms. Laurie Scott:** So there's room on the second day, Rosario, for more people.

*Interjection.*

**Ms. Laurie Scott:** Yes, but there's still room in the schedule.

**The Chair (Mr. Bas Balkissoon):** The first day is booked; the second is not. It was raised, so it's just a matter of inviting them, unless there are objections.

**Mr. Rosario Marchese:** Chair, Sarah wants to speak.

**The Chair (Mr. Bas Balkissoon):** Ms. Campbell?

**Ms. Sarah Campbell:** I think we should invite them, but—

**The Chair (Mr. Bas Balkissoon):** Mr. Colle?

**Mr. Mike Colle:** I know I had asked that GISA be invited. That's all that was discussed the other day, but I also wanted to invite my autobody repair guy, Rocco Delorenzo. He is a prominent—he's been in the autobody repair business for 40 years, and he wants to come and talk about auto insurance from the real man's perspective.

**Mr. Rosario Marchese:** He can come as a deputant; is that correct?

**Mr. Mike Colle:** He doesn't know about this procedure, but if you send him a letter, he'll come.

**Mr. Rosario Marchese:** Just ask him to call the Clerk. There's room, obviously. He can come as a deputant.

**Mr. Mike Colle:** Rocco Delorenzo of Ryding Auto Body on Castlefield.

**The Clerk Pro Tem (Mr. Trevor Day):** You're going to have to tell him to call me.

**Mr. Mike Colle:** He wants to come and talk about auto insurance.

**Mr. Rosario Marchese:** Tell him to call the Clerk.

*Interjection.*

**The Chair (Mr. Bas Balkissoon):** Whoa. I have Ms. Scott.

*Interjection.*

**The Chair (Mr. Bas Balkissoon):** Well, I thought you put your hand up.

**Ms. Laurie Scott:** I was just saying that I think there's a procedure here, right? The member has to call the person who wants to appear before to tell them to call the Clerk, or else we can't—

*Interjection.*

**Ms. Laurie Scott:** Yes. Is that okay, Mr. Colle?

**Mr. Mike Colle:** I'll work it out somehow.

**Ms. Laurie Scott:** Well, okay. You should do the right process there, for the Clerk's sake.

**Mr. Mike Colle:** If we're inviting GISA, I said why don't we invite Rocco?

*Interjections.*

**Ms. Laurie Scott:** It's a different organization. If we can just get back to it, because I think there's another organization. Ms. Cansfield has been trying to say the name, and I just couldn't hear; I'm sorry.

**Mrs. Donna H. Cansfield:** What occurred was that there was a presentation that was made, and in that presentation there were two perspectives. GISA is the insurance industry's data collection body, so when they aggregate their information it's based on data collection. Then there was Mr. Cheng, who presented similarly, but from an actuarial perspective. Of course the figures didn't mesh because you've got two different—but obviously GISA appealed to some people more than the actuarial did, and I'm just saying that I think all members should have an opportunity to question both and to hear both as to how that rationale was done. We can go back and invite the actuary for how he collected the data, that GISA did exactly the same thing.

**Mr. Rosario Marchese:** What we have is two days to hear from more deputants. If he would like to come, I think he should be asked to come and speak as a deputant rather than us inviting him as a special guest—

**Mrs. Donna H. Cansfield:** It was you who made the suggestion. It was Mr. Singh who made the suggestion for GISA.

**Mr. Rosario Marchese:** When did he make that suggestion?

**The Chair (Mr. Bas Balkissoon):** At the last meeting.

**Mrs. Donna H. Cansfield:** At the last meeting, so all I'm asking for is—

**Mr. Mike Colle:** No, no, I asked for GISA to come. It wasn't—

**The Chair (Mr. Bas Balkissoon):** Mr. Singh raised it, and Mike said—

**Mr. Mike Colle:** —and I said, "Let's bring GISA here." It was my suggestion to bring GISA here—

**Mr. Rosario Marchese:** I have no recollection.

*Interjection.*

**The Clerk Pro Tem (Mr. Trevor Day):** What if I just poll the subcommittee and see what they'd like to do?

**Mr. Rosario Marchese:** Yes, let's poll the subcommittee.

**The Chair (Mr. Bas Balkissoon):** Okay. Anything else? We're adjourned.

*The committee adjourned at 1448.*







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# **Official Report of Debates (Hansard)**

**Wednesday 1 May 2013**

# **Journal des débats (Hansard)**

**Mercredi 1<sup>er</sup> mai 2013**

**Standing Committee on  
General Government**

Automobile insurance review

**Comité permanent des  
affaires gouvernementales**

Examen de l'assurance-  
automobile



Chair: Bas Balkissoon  
Clerk: Sylwia Przezdziecki

Président : Bas Balkissoon  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Wednesday 1 May 2013

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALESMercredi 1<sup>er</sup> mai 2013*The committee met at 1604 in room 228.*

## AUTOMOBILE INSURANCE REVIEW

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you, everyone. Good afternoon. The Standing Committee on General Government is ready for its deputants.

PROVINCIAL TOWING  
ASSOCIATION (ONTARIO)  
ONTARIO RECOVERY GROUP

**The Vice-Chair (Mrs. Donna H. Cansfield):** Our first deputant is the Provincial Towing Association and the Ontario Recovery Group. Mr. Nelson, correct? I'd like you to introduce yourself first, sir, but before we do you have 10 minutes for your presentation. I'll give you sort of a one-minute-to-go. We'll start with Ms. Scott on rotation. Mr. Nelson?

**Mr. Doug Nelson:** Thank you very kindly. Thank you, ladies and gentlemen, for allowing me the opportunity to come here to speak to you this afternoon.

I'll give you a little of my history. My name is Doug Nelson. I am the executive director of the Provincial Towing Association and the Ontario Recovery Group. I'm grateful for this opportunity to be before this committee today to express our support for the full implementation of the findings of the anti-fraud task force final report.

As I am sure the members of this committee are aware, the towing industry has been recognized as a significant driver of auto insurance fraud and the financial and physical abuse of Ontario motorists. The reason is clear: There is no regulation of the Ontario towing industry today. This creates an environment that attracts fraudsters and pushes out the honest operator who wants the best for their client.

I am proud to say that the members of the Legislature have recognized this problem and presented solutions. As you may recall, MPP David Zimmer introduced—not once, but twice—legislation that would have regulated the industry. Unfortunately, these bills did not reach third reading and become law. However, all three parties voted in support of these bills.

With the findings of the anti-fraud task force and Ontario's commitment to combat rising insurance rates, now is the time to take a significant step in regulating the

towing industry, as part of the broader reforms of the anti-fraud task force recommendations. We know this cannot happen overnight, but it must happen as soon as possible. We stand ready to work with this province and all stakeholders to protect the consumer and eliminate fraud. Thank you.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, sir.

Ms. Scott.

**Ms. Laurie Scott:** Thank you very much for appearing here before us. I did follow those private members' bills that were brought in, and obviously there's recognition among all parties that there have to be some changes made.

Jeff Yurek is our PC member, and he may come in in a few minutes. He's quite familiar and has launched some insurance policy initiatives that we've put out there. He may come in and ask some more questions. I just wanted to give you that heads-up.

**Mr. Doug Nelson:** Certainly.

**Ms. Laurie Scott:** As a general question, to what extent does your organization self-police your membership and discourage the fraudulent activities that you mentioned, the poaching etc.?

**Mr. Doug Nelson:** We have absolutely no means today to regulate anybody in the industry. We receive a lot of complaints, and unfortunately we have no regulation that we can lean on to protect the consumer.

**Ms. Laurie Scott:** I'll tell you about my little incident. I had a bit of a fender-bender on—I can't remember—the Gardiner, and I had a very intimidating tow truck driver who said he was going to tow me. I said, "No. My wheel is still moving; you're not going to tow me."

**Mr. Doug Nelson:** Good for you.

**Ms. Laurie Scott:** Well, most people probably aren't that aggressive after just a fender-bender.

So I phoned my dealership, and a policeman was walking by, and I said, "Are you going to let him talk to all these people like that?" and it was very much, "Lady, I can't get involved with that." I know. He just kind of walked by.

Anyway, I won that battle. But the intimidation for other people is extreme out there. I don't have that in my local rural communities, but I do here in the GTA, in the 416.

**Mr. Doug Nelson:** We get that complaint quite often. There have to be ramifications for abuse of anybody. It

doesn't matter whether it's the public or insurance agents. They get it too. Unfortunately, we have nothing that we can do. If he had hooked up to you and taken you away and charged you a lot of money, the only recourse you have is through the Repair and Storage Liens Act.

**Ms. Laurie Scott:** It's incredible. That's just my small sample of the experience that a lot of people—

**Mr. Doug Nelson:** Intimidation is a big part of what goes on.

**Ms. Laurie Scott:** It was incredibly intimidating. I couldn't believe it. Anyway, it happened, and unfortunately, it continues to happen.

Could you tell us a little bit about why the municipal regulations of the towing industry are inadequate?

**Mr. Doug Nelson:** They're not regulations.

**Ms. Laurie Scott:** What are they? Does—

**Mr. Doug Nelson:** They're just a licence, and it floats all over the place. There are a few that are good enough to at least do background checks, but they don't all do background checks, so there can be people with criminal backgrounds in the towing industry—and I know there are, with serious criminal backgrounds.

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The municipal licensing is all over the place, and at terrible expense to the towing industry. Most of the municipalities that are licensing now are charging the company \$500 to \$600 for the company licence and \$300 to \$400 per driver, and some are even on a truck basis. The town of Richmond Hill just initiated a licensing program; I'm told the licensing fee for the company is \$5,000.

**Ms. Laurie Scott:** Oh, my gosh.

**Mr. Doug Nelson:** So I've told them, just don't buy a licence and don't tow, and I can't help but do that, because it's ridiculous. We have members in the GTA now—one member is faced with \$20,000 to \$30,000 worth of licensing at the end of this month, just to tow from one municipality to the other, because they don't recognize each other's licences. It's a serious problem, and it's done nothing to correct any of the problems. It hasn't stopped intimidation. The pricing, the bidding for a repair job—that's what they're looking for, the most expensive repair job at the scene, because a lot of these people will get 15% to 20% of the repair.

**Ms. Laurie Scott:** The anti-fraud task force recommended setting up the administrative authority to administer—are you familiar with this?

**Mr. Doug Nelson:** Very familiar with it.

**Ms. Laurie Scott:** Anyway, I'll finish the statement—to administer a province-wide licensing scheme for tow truck drivers. Are you good with their recommendations?

**Mr. Doug Nelson:** Absolutely. We have to—

**Ms. Laurie Scott:** So you've seen the recommendations.

**Mr. Doug Nelson:** —eliminate municipal licensing.

**Ms. Laurie Scott:** Yes.

**Mr. Doug Nelson:** We have to have one office with a database of all tow operators, so if we have a bad apple in Toronto, he can't go and tow in Windsor or tow in North

Bay or Haliburton or wherever. He could be eliminated from having that licence if there are some serious ramifications that would prevent him, yes.

**Ms. Laurie Scott:** I didn't compare the task force recommendations and the private members' bills, but are we covering—

**Mr. Doug Nelson:** They're very, very similar.

**Ms. Laurie Scott:** Yes. So we're covering all the recommendations that you'd like to see with that?

**Mr. Doug Nelson:** Yes.

**Ms. Laurie Scott:** Okay. I don't know—Jeff, do you have anything more? How many more minutes do we have, Chair?

**The Vice-Chair (Mrs. Donna H. Cansfield):** Five.

**Ms. Laurie Scott:** About five?

*Interjection.*

**Ms. Laurie Scott:** Do you want to save them to ask at the end of rotation? Jeff is asking—

**The Vice-Chair (Mrs. Donna H. Cansfield):** No, you just go into rotation. There's no saving.

**Ms. Laurie Scott:** Okay. I can keep going if you want.

**Mr. Jeff Yurek:** Keep going.

**Ms. Laurie Scott:** Okay. I'll keep going, then. Sorry for that slight interruption.

One question is, if we expanded the regulation for unfair or deceptive acts or practices and gave police officers the ability to ticket operators, could you crack down on the fraud that way too, if we gave police officers—

**Mr. Doug Nelson:** Under our scheme, we would like to initiate an incident management licence which would cause a sticker to be on the side of the tow vehicle, and the company would have to apply for that. When they applied for the incident management licence, they would have to declare what their pricing is and where the vehicle is going to be towed, and it would have to be within a certain area.

Several times we get complaints where a vehicle—one stands out in my mind; the lady was very upset. It happened on the 401 in Whitby, in a brand new car. She just drove it out on the 401 and she was involved in a fender-bender. A chaser got a hold of it, and he took it to Mississauga when she asked him to take it back to her dealership. It was a brand new car. She called him, and she had an awful time finding him. When she did find him, he said, "Well, it's at such-and-such body shop, and the bill's \$1,200. If you want me to tow it back, it will be another \$1,200." He happened to be just driving through, and he picked up this vehicle.

My heart bleeds for some of these people, but there's nothing we can do about it, and that's really one of the reasons why this industry needs to be regulated. We see falsified claims, we see falsified bills, and they put charges on the invoices that really don't apply, and they charge for things that don't apply. I've got a whole stack of complaints; unfortunately, we're just unable to do anything about it.

**Ms. Laurie Scott:** It's like a hostage-taking.

**Mr. Doug Nelson:** It's very disheartening to the professionals, too, because they're trying to compete with this. We had one not very long ago where a vehicle rolled over. It was a customer of one of our members, and the tow operator said, "Well, I've got the customer on the phone and they want me to tow it." That was a lie. It was somebody else on the phone. The police are having a terrible time dealing with this as well.

I've been after the police to start pressing fraud charges, and I really would like to press fraud charges with some of these people, for sure.

**Ms. Laurie Scott:** It is like a hostage-taking when you're out there.

**Mr. Doug Nelson:** Oh, it is. It's an absolute hostage-taking. I'd love to be able to revoke that licence, just tear it up and say, "You're not towing in Ontario anymore."

**Ms. Laurie Scott:** So when did—I'd say 10 years ago, probably, if my memory wasn't that bad—did it just happen over time—

**Mr. Doug Nelson:** I really hate to tell you this, but—

**Ms. Laurie Scott:** —the fraud rings?

Oh, do tell.

**Mr. Doug Nelson:** It's been developing to this for the last 40 years since I've been in the business. It was an industry that I was reluctant to even get into, but I'm from rural Ontario, from Bracebridge, and we had customers who needed towing services, and we provided those towing services for them. But because of the reputation of the industry, I've seen a lot of people get out of the business.

**Ms. Laurie Scott:** I'll just have to vouch—because I do call for tow trucks quite often in my riding of Haliburton-Kawartha Lakes-Brock—I get treated extremely well. They're very efficient. But when I changed environments, when I came down here—

**Mr. Doug Nelson:** But if you were involved in an accident and it was taken to the reporting centre, and you had a local tow operator that you trusted and had a car up there and you wanted him to tow your other car down and pick up your vehicle from the reporting centre and take it back, or come down and pick you up and take it back, he wouldn't be allowed to. He would have to hire a tow truck from Toronto to tow it out of the reporting centre. He'd have to tow it out to the line and then he'd drop it.

**Ms. Laurie Scott:** Okay. So basically, the recommendations that have come down and the private members' bills that have been presented and passed, but not in law, are able, we think, to protect the consumer and help you, in the towing industry, regulate?

**Mr. Doug Nelson:** That's what this is all about: consumer protection.

**Ms. Laurie Scott:** Okay. Good. Thank you so much for coming today.

**Mr. Doug Nelson:** You're very welcome.

**The Acting Chair (Mr. Steven Del Duca):** Thank you very much, Mr. Singh?

**Mr. Jagmeet Singh:** Thank you for taking the time to be here.

**Mr. Doug Nelson:** You're welcome.

**Mr. Jagmeet Singh:** I'm just going to go through some areas of concern, and maybe you can give me some insight into areas you think we can improve. What I have so far is that you're supportive of a province-wide licence and getting rid of the municipal pay system.

**Mr. Doug Nelson:** Municipal licensing—correct.

**Mr. Jagmeet Singh:** In terms of regulating province-wide, what are some things that you'd like to see in terms of mechanisms? One of the things you just mentioned was declaring the pricing and declaring where and how far they're going to be taking you. What are some other things that you'd like to see specifically? The task force has some broad recommendations, but not specifics.

**Mr. Doug Nelson:** One of the first things that we would have to do is set some standards. Currently in Ontario, all you need is the minimum insurance. Some of these trucks just look like regular pickup trucks, and they carry minimum insurance. When they hook on to somebody's vehicle, the vehicle they're hooked on to is not insured by the tow operator. That is a serious problem. If they lose the vehicle and it goes across the highway and is involved in a crash, it will be the consumer's insurance that will be required to be responsible for that, if they are even responsible for it. The tow operator, who may have a net zero balance in his bank account, will probably just walk away from the whole thing. So that's one thing.

Training is another. We see many people injured through lack of training. Experience to get into the industry—right now, very often we get calls into the office where somebody who just became unemployed wants to get into the industry and they call us and ask us, "What do we have to do to qualify to be a tow operator? I just bought a \$5,000 tow truck." My only answer to them is, "Do you have a driver's licence?"

"Yes."

"Do you have warm blood running through your veins?"

"Yes."

"Then you qualify."

I can't say any more, because that qualifies somebody to be a tow operator. It's unfortunate. We would definitely want to mandate proper training, proper education, ongoing education—that sort of thing.

**Mr. Jagmeet Singh:** And some standards for the vehicles?

**Mr. Doug Nelson:** Absolutely.

**Mr. Jagmeet Singh:** In all of this, one of the concerns that you raise—and I think this regulation would help in regulating the industry. Right now, in some communities and in some areas, people have a negative view of the tow truck industry.

**Mr. Doug Nelson:** We live with that every day.

**Mr. Jagmeet Singh:** And the reputation could be improved by increasing the professionalism and the standards—

**Mr. Doug Nelson:** Absolutely. That's a must today. That's one of the reasons why we have to fix this problem.

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**Mr. Jagmeet Singh:** Okay. I'm going to turn your mind now to insurance claims on the insurance side. A number of people have come and testified in the committee or given their deputations, and they've said basically that there are a lot of things that the insurance companies themselves, when they pay out a claim or when a car is brought to a body shop—they don't actually do their own part in due diligence to make sure that they're actually checking the invoices and paying things properly. Have you seen any practices where the insurance companies themselves aren't doing their job to check exactly what's going on and being vigilant about preventing any sort of wastage of funds?

**Mr. Doug Nelson:** I can't really speak for the body shops. There are some very good body shops in the province, and there are some that are—and I've heard of body shops that all they do is dismantle the vehicle and then hold the insurance company for ransom because they're going to do a big estimate on it, so they charge for the dismantling of the vehicle and they use minimum-wage labour. They're really not a body shop, but they dismantle it and say they are a body shop, and then they hold the insurance company for ransom for the amount that they want, including—and body shops are very bad for this—a huge, exorbitant bill for storage and that sort of thing. Car rentals, they try to get into car rentals and—

**Mr. Jagmeet Singh:** On the tow truck side, though, is there anything that you've seen in terms of improper practices that the insurance companies aren't doing their job to—

**Mr. Doug Nelson:** Towards the towing industry?

**Mr. Jagmeet Singh:** Right. In terms of making sure—here's an example I'll give you: Someone was talking about the body shop industry and collision repair industry, and they were indicating that the insurance companies often wouldn't check to see that the cheques were going to an actual body shop. It turned out to be that it wasn't actually a shop—or things that insurance companies can do to prevent wasting their own money.

In your industry, do you think that applies to anything that happens where maybe a truck is towed and the fee that they're charging just doesn't make sense, and an insurance company doesn't question it? Is there anything that you've seen in your experience that the insurance industry could be more vigilant themselves?

**Mr. Doug Nelson:** I think the insurance industry could be more vigilant, but the problem is, they spend a lot of time on it and there's nothing they can do. Again, they're powerless like other people. "I've got your vehicle. It's in storage, and it's going to cost you this much money. If you don't like it, leave it here for another month, because I'm going to make \$100 a day on it."

But there's one insurance company that is actively pursuing some of this, and I've asked them to lay charges of fraud against operators. One was—they charged \$40,000 for something they didn't do, and this auto insurance company is saying to me that it's difficult to prove that fraud, but they're working on it and they're

hoping that they may be able to do it. I said, "You need to do it. We need to get the police involved in this thing."

I have had meetings with the deputy commissioner and Chief Superintendent Don Bell about that specifically, that deceptive practices are fraud and there need to be charges laid. That's what we're working towards, a regulation that would really push that.

**Mr. Jagmeet Singh:** Sure. Another recommendation that came up in the anti-fraud task force—and I want to hear your input on it. It was recommended that the insurers collect information between the towing industry and any relationship between towing companies or operators, collision repair centres and health care facilities, that if there's any sort of improper activity going on, they should monitor the relationship between the three of those. Does that sound like something that you think would be a useful recommendation?

**Mr. Doug Nelson:** I think it would be useful but difficult. The reason I say that is, you've got to set up a central database. One person's opinion may not match somebody else's opinion. So I think it would be a cumbersome and expensive undertaking, but it's always possible it could happen, yes.

**Mr. Jagmeet Singh:** Okay. It has come up, and I think you might have mentioned it briefly, but people talk about—you did mention it briefly, but people talk about the fraud associated with the tow truck industry, that sometimes the bad apples out there that are doing things improperly can contribute to fraud. You talked about laying charges for people who are doing fraud. Do you have a rough estimate as an association of how much that's costing per year or any sort of ballpark figure?

**Mr. Doug Nelson:** I really don't, because it starts with the tow operator. The tow operator will arrive at a scene and quite often if there's somebody or two or three people, and they look for two or three people in a good, repairable wreck, they'll say, "You know what? I think you look like you're holding your neck a little wrong there. I think there's something wrong with you. Here's a good physiotherapist to go to, here's a lawyer to go to and here's a doctor to go to." If they get all these people, this is just the start of the chain: the 15% or 20% they get for the repair, then they get the medical clinics involved in it, they get the legal people involved in it, and going through that process, even the cost to defend yourself is a terrible cost.

**Mr. Jagmeet Singh:** Just to narrow it down, if you had to estimate just the towing side—that the tow truck operator is sending false claims, sending exorbitant claims or making bills that are just too high, you wouldn't be able to give a ballpark figure of how much that's costing?

**Mr. Doug Nelson:** It would be very hard, but obviously in the millions.

**Mr. Jagmeet Singh:** Okay, no problem, but you wouldn't be able to say accurately.

My colleague has a question for you.

**Ms. Teresa J. Armstrong:** Thank you for coming today, and—

**The Acting Chair (Mr. Steven Del Duca):** About a minute and a half left.

**Ms. Teresa J. Armstrong:** Okay, I'll make it quick—got to leave a little more time.

I want to ask you quickly—we talked about the tow truck fraud. How does the consumer become aware of that? Does the insurance company have a role to play to deliver that awareness to someone when they buy their product?

**Mr. Doug Nelson:** There really isn't a way, because the consumer doesn't understand what's going on. Many times, they're not even at the scene. Other times—

**Ms. Teresa J. Armstrong:** Right, but when you sell a policy, could they include a pamphlet about tow truck fraud and to be aware if someone comes to the scene and gives you these cards? Is that a role that could help the fraud? I don't know if that's in the anti-fraud report—

**Mr. Doug Nelson:** I don't think it would help, because if you're going to give me a pamphlet or something and I'm going to put it in my glove box—

**Ms. Teresa J. Armstrong:** You don't think—

**Mr. Doug Nelson:** —after a month, I've forgotten it's even there. Now, I get involved in an accident, I'm very emotionally upset. You don't remember these things. You're dealing with, maybe, somebody else who's hurt, or—

**Ms. Teresa J. Armstrong:** What about in the claims department, when there's a package that someone could get, and then you open up your glove box and you say, "Okay, I'm going to call the collision reporting centre. These are the steps that it takes"? Just something in there that's saying "Be aware of tow truck service," because some people—

**Mr. Doug Nelson:** There are insurance companies that put that out now—

**Ms. Teresa J. Armstrong:** Okay.

**Mr. Doug Nelson:**—and they still have issues with it, because consumers really get very mixed up.

**Ms. Teresa J. Armstrong:** Because education sometimes is—

**Mr. Doug Nelson:** Yes.

**Ms. Teresa J. Armstrong:** I know regulation is great; that's good, but education to the consumer—

**The Acting Chair (Mr. Steven Del Duca):** Thanks very much, Ms. Armstrong. We're going to move over to the government side now. Mr. Balkissoon?

**Mr. Bas Balkissoon:** Thank you, Mr. Chair, and thank you for taking the time to be here.

**Mr. Doug Nelson:** You're welcome, sir.

**Mr. Bas Balkissoon:** I sort of agree with you with regulating the industry, but can you give me a little bit more on the regulated industry, how you see it working?

**Mr. Doug Nelson:** Certainly.

**Mr. Bas Balkissoon:** In terms of the good operators, the chasers and the independents?

**Mr. Doug Nelson:** The good operators will have no problem, and they have no problem with regulation of the industry because that's what's destroying this industry. The way we see how it would happen is the regulations and the standards would be set between the government,

the stakeholders and ourselves, and we would come to an agreement on it.

We look at licensing. There would be licensing for regular tows. I don't think we need to interfere. If Jeff Yurek wants me to tow his vehicle and we make an agreement on the price, the distance and where I'm going to go, that's okay. The biggest problem is with incident management and the lack of a properly planned incident management plan. I talked about this at a North American incident management conference in 1991, and there has to be a proper plan put in place.

Right now, what we would do is initiate a towing licence. We would certify the trucks, certify the drivers, and give them a certain amount of time to get formally trained or get out of the business. They get their formal training, they are now a trained operator; they have their licence. If they want to move into incident management—and we look at incident management and unsolicited towing on the same sort of level—they would have to declare their pricing, and they would have to declare where the vehicle is going to be stored.

If there's an issue there, then it would be up to the counsel or the staff of the office to get a hold of them and say, "Well, this is acceptable; this isn't acceptable. We need to make some adjustments here." If there's an issue, there would be a database there with every towing company, every tow truck and every tow truck driver. Any complaints would be registered in their file and we'd be able to keep track of that; if it becomes a problem, it would go to the complaints tribunal, which would deal with it.

**Mr. Bas Balkissoon:** On the pricing side, I hear you, but if I could just wear my previous hat—I was at municipal council before and I worked on the licensing committee for taxi drivers and tow trucks.

**Mr. Doug Nelson:** Sure.

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**Mr. Bas Balkissoon:** Wouldn't it be better, if we were to create a provincial agency to regulate, that we also create a rate plan for the hookup and the letdown, and based on mileage or based on geographical region to geographical region, it's a set price, so the consumer knows those things ahead of time.

**Mr. Doug Nelson:** Well, I understand where you're coming from, and I would say no. The reason I say that is, if I make a commitment to you—you and I make an arrangement to tow your vehicle, okay?—you're going to know exactly what I'm going to charge you beforehand, and it's going to be reasonable. The pricing has to be qualified through your overheads and the quantities and so on.

Part of the problem that we have today is that the towing industry in Ontario has been taken over by the Americans, and it's that simple; 66% of the towing that goes on in Ontario today is managed by American roadside assistance companies, and they pay less than cost. What happens is the tow operator gets desperate, and as soon as he gets an accident where he looks at it as a cash job, he can go out there and it's inflated pricing, and I don't agree with that.

However, having said that, it has to be a quantitative issue with your own overheads, and when it comes to incident management, I would say that the council should be looking at these, and maybe another committee, be looking at every application and deciding whether this person has enough volume to sustain that as a part of his business model.

If you go into rural Ontario, rural Ontario will do probably 20% or 25% of the volume that the large companies do in the city of Toronto. The call total is a whole lot different, but yet the overhead of running the tow truck is the same.

**Mr. Bas Balkissoon:** But, like I said, we could set pricing by region, and you have a mileage charge or, you know, whatever charge for distance, a charge for hookup and a charge for letdown, and in each region that pricing chart will be different, but the consumer would know what it is.

**Mr. Doug Nelson:** Yes.

**Mr. Bas Balkissoon:** So, regardless of the tow truck operator's expenses or overheads, we would set that pricing based on knowing what the average is and make sure that the operator has got a margin of profit available to them, but at least the consumer would know ahead of time.

**Mr. Doug Nelson:** I really respect your position, but I think it would be very, very difficult, and probably destructive to the industry. As an example, in Toronto here, probably the average call is 10 kilometres, maybe five. In Thunder Bay, the average call is 200 kilometres, believe it or not, and for 200 kilometres the expenses are a whole lot different.

And in Thunder Bay, when you get there, you find different situations. An example is that the police will send them on a call for a vehicle broken down on the side of the highway, and when they get there—they go 100 or 150 kilometres out—somebody else has stopped and helped them and they're gone, and the tow operator gets no revenue whatsoever. That happens quite often. That shocked me when I went to Thunder Bay to talk to the tow operators up there. I think—and that wouldn't make me want to endorse a huge rate for Thunder Bay or anything like that, because I think that's an issue that we have to address as well.

Having said that, there are also a lot of calls where they don't get paid. We had issues in Toronto here where we had to just finally put our backs in the air and say, "Okay, we're not doing anything to clean up this highway until we know who's paying us." And the biggest part of that problem came from American companies, came from out-of-province transport trucks and that sort of thing. It was a huge issue, and thankfully we got a payment guarantee program put into place. The Ministry of Transportation has been very successful at collecting the invoices that we've paid, and we've got a lot of that straightened around.

I certainly appreciate where you're coming from, but I think it would be very, very difficult, to be fair to the consumer, the towing industry and so on.

**Mr. Bas Balkissoon:** Okay. My colleague has a question for you.

**Mr. Mike Colle:** Thank you, Mr. Nelson. So we've got 40 years of organized fraud that's basically been taking place in this province?

**Mr. Doug Nelson:** Yes, sir.

**Mr. Mike Colle:** We've got a multi-billion dollar industry where many of the front people are fraudsters, and—

**Mr. Doug Nelson:** I'm sorry?

**Mr. Mike Colle:** The front people in the industry—in other words, when you get in an accident, you're more than likely to encounter one of these fraudsters who operates a tow truck and who's connected to a fraudulent paralegal who's connected to a fraudulent massage parlour, and so the poor consumer is really at the mercy of this organized fraud. It's like organized crime, basically. It's in every part of the industry right now. How is this one small part of government going to control all this? That's what I ask you. I get comments about the police, that they're very friendly with some of these people.

**Mr. Doug Nelson:** Well, that's happened.

**Mr. Mike Colle:** That's happened more than once, too.

**Mr. Doug Nelson:** Yes, that's happened more than once.

**Mr. Mike Colle:** So the police can't handle it. MTO and the good guys in your industry are overwhelmed by these fraudsters.

**Mr. Doug Nelson:** That's right.

**Mr. Mike Colle:** And then we're going to give out pamphlets to stop this fraud? Geez. Anyways, comment on that.

**Mr. Doug Nelson:** Okay. I'm happy to. First of all, we go into the licensing. We can pull somebody's licence for fraudulent activity; there's no question about that. But part of the problem that you have in the GTA is that you do not have a plan for tow trucks and incident management. I said that back in 1991, and a lot of the states in the US have listened to my reason and even Montreal has what they call a tow control zone where a towing company can bid on a certain section of a highway. They have to post their pricing and they have to live to that and they have to take the vehicle to a separate impound, not a body shop or anything like that, and then the consumer or the insurance company—

**Mr. Mike Colle:** Doug, I know you've got great solutions and I think we need to listen to you on that. I just, because of time—

**Mr. Doug Nelson:** Yes.

**Mr. Mike Colle:** What I'm trying to get at is that I think many of my colleagues here are like the average citizen. When I've gotten into this, I just can't believe the scale and the scope of this.

**Mr. Doug Nelson:** I agree with you. It's a problem.

**Mr. Mike Colle:** How could we, in this province, for 40 years basically, tolerate this taking place? Why has this been allowed to go on for so many years where these

fraudsters have taken millions of dollars out of the pockets of everybody—the good people who work in the industry, the good insurance companies, the good body shops—

**The Acting Chair (Mr. Steven Del Duca):** Thanks very much, Mr. Colle. We're going to have to end it there. Thank you, Mr. Nelson, for being here with us today. Thank you very much for your time.

**Mr. Doug Nelson:** I'll come back for a couple of days if you want me sometime.

**The Acting Chair (Mr. Steven Del Duca):** Thank you.

### ONTARIO CHIROPRACTIC ASSOCIATION

**The Acting Chair (Mr. Steven Del Duca):** I'd like to ask our next guests from the Ontario Chiropractic Association to please come forward. Please identify yourself for the record. You will have 10 minutes for your opening remarks once you are seated and you've identified yourselves.

**Dr. Bob Haig:** Thank you, Mr. Chair. My name is Dr. Bob Haig. I'm the executive director of the Ontario Chiropractic Association. With me is Dr. David Dos Santos, who's a member of the association and has considerable experience in the auto insurance field.

**The Acting Chair (Mr. Steven Del Duca):** Terrific. Thank you for being here today. Your 10 minutes begins now.

**Dr. Bob Haig:** Okay. First of all, thank you for this opportunity to discuss auto insurance with you. We appreciate very much being consulted and being able to express our views.

Ontario chiropractors provide care to a wide variety of motor vehicle accident patients and we recognize the importance of a rigorous regulatory process that combats fraud. As experts in musculoskeletal injuries, doctors of chiropractic are primary care practitioners with the duty and authority under the RHPA and the Chiropractic Act to diagnose. Chiropractors' practices are focused on musculoskeletal conditions, and much of this is neck-related. They're very well-trained practitioners for the management of most auto insurance soft tissue injuries, which, as we know, are the majority of claims.

There are three specific issues we would like to address as we're going through this presentation. Those issues are:

—the \$3,500 hard cap on benefits for patients defined as having minor injuries;

—second, the nature of the assessment process for determining claimant entitlement; and

—finally, the administrative burden and additional layer of regulation that's proposed on an already highly regulated health profession.

First of all, the hard cap on benefits. As we know, there's a \$3,500 hard cap on benefits for motor vehicle accident patients with minor injuries, and \$2,200 of that is included in the pre-approved MIG guideline. This was, of course, one of the key features that was put in place with the 2010 reforms.

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We're very supportive of the concept of a pre-approved set of services. We're fully supportive of the definition of the minor injury, but with our members having used this for a couple of years now, there are some issues that have come up that we would like to identify for you.

I want to say that the majority of injuries that are treated by chiropractors are the soft tissue minor injuries as defined in the legislation, and for the vast majority of those patients, the \$3,500 cap is sufficient. That's in the majority of cases. But there are some patients for whom this absolute hard cap is insufficient to cover their required treatment. Some patients have multiple injuries and diagnoses that impact their recovery time and recovery rate. There are times when what appears initially to be a relatively simple, straightforward condition turns out during the course of care to be significantly more complicated than anticipated so that recovery ends up being longer and more expensive.

I want to point out that the most recent, authoritative scientific evidence—this is from the Bone and Joint Decade 2000-2010 Task Force on Neck Pain and Its Associated Disorders—indicates fairly clearly that most people with neck pain don't fully recover, but they can expect to have recurrences, and there's a percentage of those people who are going to become chronic. So there's a normal expected recovery for most people with a minor injury, but the evidence says that's not everybody. Some of these patients go on to have more chronic problems and do not recover as quickly. Current regulations and the current MIG guideline are not flexible enough to accommodate that, and our recommendation is that it be made so.

The recommendation then is that the statutory accident benefits schedule be amended to provide for medical and rehabilitation benefits beyond the current minor injury cap of \$3,500 when that is in fact required for the care of those patients. We believe that these individuals have purchased insurance and they have a right to expect access to the care that they need as a result of an accident.

**Dr. David Dos Santos:** There are times when a dispute arises between a claimant and an insurer on the nature and the extent of an injury, and the benefits to which the claimant is entitled, including whether or not the patient's injuries are considered minor injuries.

The statutory accident benefits schedule requires that an insurer who declines to approve a treatment plan must provide medical reasons for doing so. Despite this requirement, chiropractors in Ontario continue to identify circumstances where a patient's claim is denied, but no medical reason is provided. It appears that, in some cases, denials are made by claims adjudication staff without any medical or health care expertise or input at all. This was clearly not the intent of the legislation.

Further, in those cases where a third party assessment is completed, it is rarely completed by a peer—that is, another chiropractor.

Past iterations of the SABS have determined patient entitlement in different ways. In the 1980s, entitlement

was at the discretion of the insurer's medical adviser. This was clearly inappropriate and the legislation swung towards putting much greater reliance on the opinion of the treating practitioner. This was also problematic, and from there, it shifted to a system of neutral assessors.

The 2010 iteration, under which we now operate, puts the decision back in the hands of the insurer-appointed medical professional. The pendulum has swung too far back.

Past regulations have supported peer evaluation to assess the reasonableness of treatment plans. When a question of whether or not a chiropractic treatment plan was reasonable for a particular patient, the insurer would ask a qualified, independent, third party chiropractor.

We would strongly recommend that this principle be reinstated. Reinstating a process that utilizes the peer-to-peer assessor model will ensure a level of clinical rigour and fairness for claimants such that they can receive the care they need but not more than they need.

A second issue with respect to assessments and assessors is that there are no standards for the quality of the assessments or the qualifications of the assessors. There should be. Claimants should be entitled to expert assessments by a trained and qualified assessor.

We therefore recommend that the statutory accident benefits schedule be amended to include the principle of peer assessment to determine the reasonableness and the necessity of a treatment plan and that criteria and qualifications for assessors and the quality of assessments be established in consultation with experts from the professions involved.

**Dr. Bob Haig:** The third issue then is dealing with fraud. Obviously we're very supportive of the government's efforts to reduce fraud in the system and the recommendations of the anti-fraud task force.

Again, our members have identified a number of challenges that exist with the anti-fraud regulations that have been in place for the last couple of years, and I just want to highlight those. There are really two categories. There's the statutory declarations and then there's the licensing of clinics and practitioners.

Section 46.2 of the SABS, which sets out the provider's obligation to provide information, is being abused. There are requests from insurers that are often unnecessarily complex and demanding, both in terms of the quantity and the type of information they require providers to submit. These requests often give rise to privacy concerns by practitioners not sure whether they can legally share the information that insurers are requesting. Obviously, members are small business people and there's concern that the amount of time and effort and the burden that's put on them is impacting their ability to deliver care.

I just want to give you one example here. An OCA member forwarded this to us just last week actually, and it was a statutory declaration that he was asked to complete by an insurer and sign. It was 18 pages long, there were 76 questions on this, and as an example of the level of unnecessary detail, they asked him to detail any

equipment used, provide the serial number and the model number of any equipment used, the last inspection date on the equipment and when it was purchased. This is obviously significantly more information than is required in something like that, and it very, very seriously bogs down the process for the patient. It's our view that rigorous anti-fraud regulation is important, but there needs to be a balance between these efforts and fair access to reasonable and necessary care.

The final point has to do with the licensing of clinic and practitioners. The task force made recommendations on this, and the Minister of Finance yesterday announced the government's intention to give FSCO the authority to license and oversee health clinics and practitioners who invoice auto insurers. This is an important principle. We're in support of the principle, but there is a very significant difference between an individual regulated health profession and rehabilitation clinics that are not owned or operated by regulated health professions.

**The Acting Chair (Mr. Steven Del Duca):** One minute left.

**Dr. Bob Haig:** One minute? All right. I'll get there.

A regulated health profession's entire practice, including their business practices, are regulated by their regulatory college under the RHPA, so that is already there. The proposal for licensing has the potential to be very burdensome. That potential burden can be minimized if in fact there is a tiered approach to licensing.

The original recommendation from Handler and Associates was that there be some kind of a tiered process. We're very strongly supportive of that and would want to make sure that there was not double regulation essentially on regulated health professions.

Given the time, I'm going to quit.

The recommendations are set out there in that green box. Actually, in 10 seconds, I will do this. The recommendations: that requirements to provide information be reasonable and not an unnecessary burden; that regulated health professionals should have a streamlined licensing process because they are already regulated; and that for non-regulated health-profession-owned clinics, a more detailed licensing process is required.

**The Acting Chair (Mr. Steven Del Duca):** Terrific. Thanks very much.

The first round of questioning will go to the NDP caucus: Mr. Singh.

**Mr. Jagmeet Singh:** You touched on this in the first portion of your deputation—first of all, thank you for attending and thank you for giving your feedback. There has been recently a decision, the Scarlett decision, which I think touches on what you were talking about, that there's a hard cap now called the MIG, the minor injuries guideline; it's \$3,500, and for most people that's fine. For many people, that's good enough, but there are cases where it's not good enough.

The Scarlett decision was an arbitration decision and in that, essentially, if a particular individual can show reason why, in their particular circumstances, that amount is not sufficient to cover them and to cover their

care, they are able, through this arbitration process, to be deemed not to fit within the MIG category.

What are your thoughts on that idea of allowing, in certain cases, in particular circumstances, given some evidence, that certain individuals should not fall within the minor injuries guideline?

**Dr. Bob Haig:** David will have something to add to this, I expect, but in principle, that is what we're suggesting. That may have been the case in that arbitration decision. The day that that came down, I was with a group of insurers who said, "That's not going to last for long. That won't stand; we're going to fight it."

The point is that the legislation is not clear that that is permitted, and we believe very strongly that it should be.

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**Mr. Jagmeet Singh:** Okay. My understanding is that—do you want to add to that?

**Dr. David Dos Santos:** Do you want me to comment further?

**Mr. Jagmeet Singh:** Yes, sure.

**Dr. David Dos Santos:** Just to follow up on that, part of the problem is that the current regulations don't allow for a process for the person to access additional benefits. There's no requirement for an independent assessment. Like I mentioned many times, the decision is being done arbitrarily, it seems, by an unqualified claims adjudicator. The only option the claimant really has is to apply for mediation arbitration, which is a very lengthy process; and if they need medical goods and services, they need it now. They don't need physiotherapy in two years; they need it—

**Mr. Jagmeet Singh:** And in fact, to build on that, medically, I guess—or there's evidence to suggest this or scientific data to support the idea that more care up front is more likely to result in a better prognosis or a quicker recovery if you receive that care right after your injury as opposed to having to wait for a number of years. That could actually negatively impact your ability to recover. Is that your understanding as well?

**Dr. Bob Haig:** Early access to appropriate care absolutely has an impact, but it's also true that it has to be the right kind of care and it needs to be geared to the injury.

**Mr. Jagmeet Singh:** So if I summarize your position in terms of the \$3,500 cap, for a good number of people that might be enough, that might be okay, but there needs to be a mechanism so that people who need more don't have to wait years and years to get through adjudication to be determined that, yes, you do deserve more. There needs to be a mechanism that that person can apply and be able to get more.

Secondly, the decisions to put people in different categories should be based on assessments by expert assessors, not by the claims adjustor, who just arbitrarily decides, "This person is going to go in that category."

**Dr. Bob Haig:** Correct.

With respect to assessments, there are really two issues: What's the extent of the injury, and is the proposed treatment appropriate? When it's a question of "Is the proposed treatment appropriate," if it's a treatment

being proposed by a physiotherapist, it should probably be a physiotherapist who's evaluating whether that's appropriate care, and the same with chiropractors. That's the concept of the peer-to-peer assessment.

**Mr. Jagmeet Singh:** The peer-to-peer assessment. Okay. Well, let's talk about assessments, then, now that we've moved to that area. As it stands now, we've gone through a number of different systems. One of the systems that we went through was the DAC system. We've gone through different ways of assessing someone's injuries and what the appropriate way to do it is. There have been some pros and cons to various systems.

Now we're in a position where the Ontario accident victims are legislated to attend something called—I'm sure you're well aware—the independent medical examination, and in that case, the claimant really has no choice in terms of who they go to for their assessor. They might have had a family doctor, or they might know a chiropractor who they have respect for, but they don't have any decision-making in that; they can't choose the person.

What's your opinion of that system, the way it is right now? Do you think it works, and is there a better way to do it?

**Dr. Bob Haig:** The system right now we don't think works, because it is the assessor that is assigned by the insurer. As David said, there was a time back in the day when it moved from that to essentially putting too much weight on the providers: If the provider said you needed it, you needed it. That was going too far the other way, quite frankly.

The DAC system was intended to be neutral, and it was neutral, but it was costly.

**Mr. Jagmeet Singh:** It was costly; that's right.

**Dr. Bob Haig:** So the concept of an independent, neutral assessor is what we believe needs to be there.

**Mr. Jagmeet Singh:** Right, and what that looks like is going to take some figuring out.

**Dr. Bob Haig:** Yes, and the principle—honestly, I have not thought this through carefully, but if there was a provincial roster that was run by FSCO, for example, but it was not the decision of the insurer which assessor you saw, that would inherently be more fair.

**Mr. Jagmeet Singh:** That's an interesting idea. Thank you for that suggestion.

One other idea I wanted to ask you about: I'm going to turn your mind to the "catastrophic" definition. You've looked at that and you're familiar with that?

**Dr. David Dos Santos:** Yes. I'm familiar with that, yes.

**Mr. Jagmeet Singh:** Okay. So, one of the areas that they're trying to—first of all, I personally think it doesn't need to be touched. It's been developed over some time and it's in a good condition now. I think that trying to narrow the definition—it's already a small percentage of people that are covered, and I think that's absolutely the wrong way to go. I personally think it's not the right way to go, but there could be some modifications.

One of the things that has been suggested, which I think makes sense—as opposed to redefining the actual

catastrophic definition, standardizing the techniques used to measure the issue is, I think, a better approach. I want to hear your opinion on that, and maybe you can clarify what I've said and put it in better terms. Do you know what I'm asking?

**Dr. David Dos Santos:** Yes. That gets to the whole issue of assessor qualifications, because there are no standards that are laid out in the regulations for assessor qualifications. This is especially important with catastrophic cases. We put on a course where we train physicians in catastrophic impairment reading, the AMA fourth edition guideline, but there are very few physicians in the province that are certified in that. Absolutely, if there was some sort of higher level of assessor quality control, you would get more high-quality assessments.

**Mr. Jagmeet Singh:** Perfect. Specifically, though, what about the idea of standardizing not the definition or changing the definition, but having a standardized methodology—the methods, the steps that you take to assess somebody, that being better defined as opposed to looking at the definition itself. That different approach—do you follow my suggestion? What do you think about that?

**Dr. David Dos Santos:** Well, the methodology is incorporated into the training. When somebody goes through their training, the methodology is laid out, for example, in the AMA guides.

**Mr. Jagmeet Singh:** And do you agree that that would be a superior way to deal with this problem, as opposed to looking at the definition alone?

**Dr. Bob Haig:** A standardized methodology of arriving at the—

**Mr. Jagmeet Singh:** The conclusion.

**Dr. Bob Haig:** I think that that does make sense.

**Mr. Jagmeet Singh:** Okay. And what's your feeling on the proposed changes? There has been a committee that met and they came up with some proposals. Do you have any response to their proposals? If you don't, that's okay.

**Dr. David Dos Santos:** I think, in principle, it's good to look at what people are doing out there. The concern, I guess, is that, again, some of the proposed changes may result in a non-standardized assessment process. At least with the current impairment rating—

**The Acting Chair (Mr. Steven Del Duca):** One minute left.

**Dr. David Dos Santos:** At least with the current AMA guides, there's a very clear process that assessors are supposed to follow.

**Mr. Jagmeet Singh:** Quickly—just a couple of seconds left—are there any problems with the anti-fraud task force recommendations—any of them that you have a problem with that you haven't been able to say?

**Dr. Bob Haig:** No, not at all. We made the point about the licensing, which is included in there, but in principle, absolutely no concerns at all.

**Mr. Jagmeet Singh:** Besides the concerns that you laid out in your deputation.

**Dr. Bob Haig:** Yes, that's right. They're implementation as much as principles.

**Mr. Jagmeet Singh:** Okay. I think that's pretty much all our time.

**The Acting Chair (Mr. Steven Del Duca):** Thanks very much, Mr. Singh. Now over to the government side: 10 minutes for Mr. Balkissoon.

**Mr. Bas Balkissoon:** Thank you for coming; good to see you again. Tell me, have you had complaints from your registered professionals who are working in some clinics and aware of fraud taking place?

*Interjections.*

**Dr. Bob Haig:** I'm sorry, I missed part of the question. Are we aware—

**Mr. Bas Balkissoon:** Yes, have any of your registered chiropractors been in touch with—

*Interjections.*

**The Acting Chair (Mr. Steven Del Duca):** Could we have some order, please?

**Mr. Bas Balkissoon:** —yourselves because they're working in a clinic where they may suspect there is fraud?

**Dr. Bob Haig:** When we hear from members about this most is when they have left a facility because they were uncomfortable with the way that it was operating and are concerned that their name or licence number is continuing to be used to submit claims. That's generally when we hear from members.

**Mr. Bas Balkissoon:** Have you taken any action beyond just getting the complaint?

**Dr. Bob Haig:** We have. We've provided our members with a sort of to-do list under those circumstances in order to protect them from that, things like making sure that you don't give an electronic signature, making sure that you sign every document yourself, making sure that you read every document you sign, making sure you don't sign anything for services that you have not completed.

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When members report that they're concerned about their identity being stolen and used, we advise them to contact the Insurance Bureau of Canada and the regulatory college, the College of Chiropractors of Ontario, to advise that they are no longer affiliated with that clinic.

**Mr. Bas Balkissoon:** Are you aware of how many of those complaints have gone to the insurance bureau?

**Dr. Bob Haig:** I don't, because just because we advise members to do that doesn't mean that they do it. But I've probably had that conversation with a dozen members over the last three or four years.

**Mr. Bas Balkissoon:** Okay. I couldn't quite hear you because of the traffic noise out here. You did say how you see the peer assessment working—because the current one that you have, you think that the person who is doing the assessment is working for the insurance industry. You had a model that you said—can you repeat it, because I couldn't hear it?

**Dr. Bob Haig:** Oh, I'm sorry. In fact, I was musing, but I was suggesting that the concept of an insurer-

appointed assessor is an inherent problem, and that if there was a mechanism for assuring a third party independent assessor, that would be a peer assessment when it was required. But I suggested that such a system might be organized and run by FSCO or some body, other than the individual insurers deciding who the assessor should be in an individual case.

**Mr. Bas Balkissoon:** But you see FSCO choosing that assessor out of your membership. Is that what it would be?

**Dr. Bob Haig:** Sorry; not just out of our membership, no. One of the issues is that there need to be clear qualifications for people who do those assessments. That would have to be very, very clear. Those don't exist. We would love to be part of a process that establishes what they are, but, quite frankly, it shouldn't be us any more than it should be an insurer.

**Mr. Bas Balkissoon:** How do you see the injured person getting to this third party? What would be the process to get that second assessment?

**Dr. Bob Haig:** If an insurer requires an assessment, then, rather than just setting up the appointment with their appointed medical practitioner, they could request FSCO or some other third party to do that. This is just a concept, but it would be one way to not have it the way that it is; there are probably others.

**Mr. Bas Balkissoon:** I think we've heard from the Ontario Trial Lawyers Association, and their complaint was that there's a time break between treatment. I'm trying to get to this because, if you want to address the time break, when would the third party be brought in—at the front end; the middle? How do we do this, if we were to put that in rules?

**Dr. David Dos Santos:** It comes down to fairness for the claimant. Where there's an issue, where there's a dispute regarding—at key points in the process, if they're in the MIG or they're not in the MIG, or where there are disputed medical goods and services—I think if you focus it on the key points where there may be a dispute—

**Dr. Bob Haig:** One of the major benefits of the MIG and, before that, the pre-approved framework was that the patients could access care essentially immediately for that pre-approved bundle of services. Any mechanism needs to not interrupt that.

**Mr. Bas Balkissoon:** What percentage of your accident victims who have come to your members would have required that additional coverage? Do you have an idea?

**Dr. Bob Haig:** I don't have a number, and I—

**Mr. Bas Balkissoon:** Because what I'm trying to figure out is, if you know the percentage, can their injury be assessed at the very first or second treatment to realize that it would require beyond—

**Dr. Bob Haig:** The problem is that sometimes you don't know. There are some times that you can't tell at the initial assessment. If you have a group of 1,000 people with a WAD II, there are some of them who are not going to recover within what's considered the usual time frame. But you can't always pick out who they are.

**Dr. David Dos Santos:** Sometimes, with further investigation, things come up as far as the impairments. I have a patient now with a shoulder issue related to a car accident. It was diagnosed as a strain, and he has a tear in the labrum—the cartilage. So these things evolve sometimes over time, and sometimes right away. It's hard—in most cases, the majority of patients with soft-tissue injuries fall within the minor injury.

**Mr. Bas Balkissoon:** I'll go back on the point that you said that you're encouraging your members that they should sign individually rather than an electronic signature. Do you think that that should be standardized? Maybe electronic signatures should be banned.

**Dr. Bob Haig:** Where it's an issue is in the large rehab businesses where people are employees and they're plugged into a business model that is run by a non-health professional. I would think that with anyone who practices as an individual practitioner, it wouldn't be an issue at all.

Obviously, there has to be a balance between—you want to protect against fraud, but you also want to make sure that there's a smooth administrative process to not slow down the process. Quite frankly, I don't know enough about the different sectors of the rehab clinic market to know. We know that there are some that have relatively poor reputations, that members talk about and advise each other not to go anywhere near, and there are others that have very, very good reputations. I don't know whether something like that would be effective and whether or not it might actually jeopardize the smooth operation of some clinics where it's not necessary. I can't give you a better answer than that.

**Mr. Bas Balkissoon:** Okay. Thank you, Mr. Chair.

**The Acting Chair (Mr. Steven Del Duca):** Thank you very much, Mr. Balkissoon. We're going to now turn to Mr. Yurek for his 10 minutes.

**Mr. Jeff Yurek:** Thank you, Chair. Thanks, guys, for coming out. It's great to hear from another aspect of the insurance industry, the health care providers.

The government announced yesterday that part of their changes to auto insurance was the fact—you mentioned about the health clinics being regulated, a whole new avenue for FSCO to handle. I think they're pretty overburdened as it is. You mentioned about the professional colleges; I'm a member of a professional college, so I kind of get how they operate.

My thoughts, or the PCs' thoughts—we put out a plan of action about four weeks ago. One of them was to, instead of creating a whole new bureaucracy and regulations for the industry, perhaps have the current health care professional bodies regulate the health care clinics, in essence by mandating them to have, at any clinic, a registered health care professional be the designated manager or the manager in charge of making sure there's no fraud going on. Their licence is on the line to make sure that everything is above board.

I think that would save a heck of a lot of money in the system in building this bureaucracy, but it also would provide a stable safety base for the industry. What are your thoughts on something like that?

**Dr. Bob Haig:** Well, I think that the regulatory colleges are actually very capable. They have standardized, effective processes for looking at investigating things. I actually don't know—and this is not a criticism; I just don't know—whether or not a designated manager who's responsible, that's an RHPA—how that would work in the business model.

The other option would just be to simply say anyone who bills an auto insurer for health care services can only be a regulated health professional. There are things like that in other provinces—I think Alberta is like that—so that would be another way of doing that and ensuring that the regulatory colleges had the clear responsibility to regulate the whole operation.

**Mr. Jeff Yurek:** Yes, I got that idea. I'm a pharmacist, and that's how the pharmacy system works; you have a designated manager. This allows Walmart to have a pharmacy and Shoppers to have pharmacies. Your grocery stores have pharmacies. I mean, I heard Canadian Tire is getting ready to have pharmacies. This allows it, but we have a safety level in knowing that the College of Pharmacists knows that there's a designated manager in there, and they're following the rules of the law and their licence is on the line.

I think with respect to just having a health care professional only, that will cause a schism in this industry, because those companies that are still in business are going to have to have a grandfather clause and that would cause—but that's a good point. I like that.

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Now, the other role I think that FSCO should take up, which is part of your idea, is of the peer-to-peer assessment. I think that's a perfect role for FSCO: to have that list of health care providers so that if there is a problem with the insurance company saying, "We don't agree with your assessment. We want another assessment," that allows the claimant to go to FSCO and say, "Give me a list of health care providers that I can choose to go through."

Can you give your thoughts on if that would be a great way to handle that idea of peer-to-peer?

**Dr. Bob Haig:** The DAC system essentially was FSCO-mandated. It got very complex and expensive for insurers and we would need to make sure that that did not happen again with—

**Mr. Jeff Yurek:** Sure.

**Dr. Bob Haig:** I really think the key is to find a way to keep it relatively simple and relatively quick so that people's care is not delayed by this.

**Mr. Jeff Yurek:** Instead of having the big centres, we'd just have the individual chiropractor, say, in North Bay, who wants to be on the list, and if they qualify, they're in.

**Dr. Bob Haig:** Correct. And it has to be the case that an opinion expressed on a chiropractor's treatment plan by another chiropractor is not as likely to be challenged as if it's by someone from a different profession. We think that the peer-to-peer assessments will actually reduce the number of disputes that go on to mediation.

**Mr. Jeff Yurek:** And the mediation is, what, a 414-day wait now before you hear anything?

**Dr. Bob Haig:** I don't know the details, but I do know that it's not the way you want to go to try to get things resolved.

**Mr. Jeff Yurek:** You mentioned about injuries, the guidelines are inflexible. I agree with that. What's a time frame that you would put at for an average so that we cover 80% or 90% of the injuries out there that would ensure that we can say, "You're guaranteed coverage for X months, weeks"? Can you put a figure on that?

**Dr. Bob Haig:** That would be in the range—and David will correct me if I'm wrong here—of six weeks.

**Mr. Jeff Yurek:** Six weeks?

**Dr. Bob Haig:** Yes.

**Dr. David Dos Santos:** The current minor injury guideline, I think, allows for 12 weeks, but the recovery process can go on for quite a while. If you're looking at expanding the MIG like we're recommending, obviously there has to be financial means there so that a provider can keep providing treatment, but there's also the time frame we're talking about. Probably six months would be sort of the recovery curve. At that point, if the person is not getting better there may be something else going on, and it should be investigated further. But you have to allow for the majority of patients, 80% or whatever it is, to—

**Mr. Jeff Yurek:** It's kind of like 100%.

**Dr. Bob Haig:** That's the challenge, right, that if you design it for 80% then there's 20% who are not properly protected. The number of weeks or months or dollars is probably not as important as the mechanism in order to make sure that people can get what they need.

**Mr. Jeff Yurek:** Okay. Thank you.

The anti-fraud task force talked about giving FSCO the ability to audit billing practices at the clinics. Do you think that's a good measure to take or do you think that'll be too much of a burden on the clinics?

**Dr. Bob Haig:** I suppose it depends on the mechanism and the implementation. The devil's always in the details. The College of Chiropractors, for example, has a peer review process where a chiropractor goes in—one of their assessors goes in—and they look at the entire practice including billing, so we know it certainly can be done.

To do it specifically for auto insurance: There's a vast difference between an audit process that is a periodic, random thing and a process that is going to require two days of a practitioner's time every year. Again, the challenge is to make sure that whatever is put in place is straightforward enough that it has the effect of deterring purposeful fraud without impacting the ability of people to care. I mean, the reality is that the administrative cost of anything that people are required to do is eventually going to be borne by the consumers—eventually. That may be the patients and the insurers or it may be the taxpayers, depending on how it works. In principle, we want to keep the amount of administration and red tape to a minimum but still ensure that you've got mechanisms in place to identify and deal with purposeful fraud.

**Dr. David Dos Santos:** The other point—

**The Acting Chair (Mr. Steven Del Duca):** One minute left.

**Dr. David Dos Santos:** Yes. The other point I just want to add is the majority of health care providers are in solo practice or very small practices. They're not working in these big centres, so we've got to be careful we don't burden them with unnecessary—

**Mr. Jeff Yurek:** Sure; it's fair and reasonable.

**Dr. Bob Haig:** Yes.

**Mr. Jeff Yurek:** One quick—I got 40 seconds. With the government's announcement of 15% cuts in the rates—they seem to use the number of \$1.5 billion there to save, which is essentially ending fraud to zero by the end of the year, which is going to be a tough row to do. Last time they legislated cuts, benefits were cut. Do you have a concern that possibly benefits to the accident victims are going to be hampered by this decrease?

**Dr. Bob Haig:** Well, obviously I don't know the details of what might be put in place in order to achieve that 15%, but there's not much room to cut benefits. The MIG and the \$3,500 limit actually had a very, very significant impact on the amount of benefits available to people. I don't think that there's much room to cut benefits.

**The Acting Chair (Mr. Steven Del Duca):** Thank you very much. We appreciate that. Thanks for being with us here today.

#### ASSOCIATED CANADIAN CAR RENTAL OPERATORS

**The Acting Chair (Mr. Steven Del Duca):** I'd like to call our last guests to come forward, from the Associated Canadian Car Rental Operators. Please identify yourself and then you'll have 10 minutes for your opening remarks.

**Mr. Michael Dearden:** Good afternoon, Mr. Chairman and members of the committee. My name is Michael Dearden. I'm here today on behalf of ACCRO, the Associated Canadian Car Rental Operators.

I want to begin by thanking the committee for inviting us to meet with you. ACCRO represents the vehicle daily-rental industry in Canada. Our membership includes all of the major car-rental firms in Canada as well as many smaller family-owned firms. ACCRO has 168 Ontario-based members that currently operate approximately 60,000 vehicles in the province, more than half of which are in the GTA.

The Truck Renting and Leasing Association of America, TRALA, also supports the remarks I am delivering today.

For the last 20 years, ACCRO has had a close working relationship with the government of Ontario. We've had many meetings over the years with elected and unelected officials, discussing a wide range of issues of concern to the vehicle-rental industry. We want to stress that we've had a very positive and constructive relationship with Ontario. We appreciate the opportunity to continue in that vein here today.

Over the years, auto insurance issues have been a primary concern of our members. Auto insurance premiums represent a significant cost of our business. All rental vehicles in Ontario are fully insured by the operators. Auto insurance premiums are our largest business cost over which we do not have full control, so we pay close attention to any legislation or regulation that impacts auto insurance. When renters have their own personal auto insurance, claims costs are borne by their own insurer.

Most recently, ACCRO appeared before the anti-fraud task force and shared the experience and suggestions of our industry as it relates to auto insurance fraud. We are on record as supporting the work, findings and recommendations of the task force. I know that Fred Gorbet, chair of the task force, has already appeared before you. We've reviewed his testimony and want to confirm our strong support for his remarks.

What follows are the five concerns we have raised in our appearance at the anti-fraud task force.

(1) In a survey we conducted about the claims experience of our members, we found concern with respect to suspicious, non-threshold injury claims made under our firms' policies arising from low-velocity collisions where damage is minor or non-existent. This is a problem concentrated largely in the GTA, a finding supported by the anti-fraud task force and commented on by Mr. Gorbet in his appearance before you.

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(2) The ability to share claims information for the purposes of fraud investigation or to manage risk at our rental counters does not exist due to current privacy legislation. While we all respect the need for the protection of personal information, we do not believe the intent of privacy protection legislation was to provide a shield behind which fraudulent activity could be conducted. We would also request that claims information from commercial policies be incorporated in the province-wide claims database, as it currently is not.

(3) The reforms of September 1, 2010, including the \$3,500 cap on minor injury treatment, are having a positive effect on our industry's claims frequency and cost.

(4) We recommend the establishment of a dedicated auto insurance fraud investigation unit through the Office of the Attorney General. Our industry's experience in jurisdictions that have introduced a similar investigations unit is that the claims rates and amounts decline.

(5) We agree with the task force that there is a gap in regulation with respect to tow truck drivers. ACCRO has worked with and been a strong supporter of MPP David Zimmer in regard to his private member's bill. ACCRO believes that the towing and storage industry in Ontario needs tightened oversight. Self-regulation will not, in our opinion, achieve the improvements required in this industry.

Thank you very much for the opportunity to speak to you today.

**The Acting Chair (Mr. Steven Del Duca):** Thank you very much for those opening remarks. We are going

to begin with the government side, Mr. Balkissoon, for 10 minutes.

**Mr. Bas Balkissoon:** Thank you very much, Mr. Chair. Let me hear you very clearly. You're saying that your members, which is the rental business—their claims are not included in the insurance company's database today?

**Mr. Michael Dearden:** They're not included when considering some of the work that the task force did. Commercial auto claims and commercial policies are not considered in the same way that personal auto claims are. We were shocked to find out that a lot of the information is simply not shared inside the insurance industry or with the government in the same way that would give you a true picture of the costs of insurance fraud.

**Mr. Bas Balkissoon:** So in reality, it's probably larger than we know.

**Mr. Michael Dearden:** That's right.

**Mr. Bas Balkissoon:** Okay. Your industry has the same problem with the towing industry as a private car owner.

**Mr. Michael Dearden:** Yes. Perhaps we could even say it's worse, because that's our livelihood that just got towed off down the road, and if our customer happens to be a tourist from Germany who got in an unfortunate accident on the 401, his priority is not where that car went and to what lot; his priority is to take care of his family and his luggage, and finding a hotel and what he is going to do now. Our car disappears off into some lot somewhere where the cost for an overnight stay is generally more than it will cost that German tourist to stay in a hotel, and we may never find that car for days. That's deliberate because they just keep ringing up the bill.

**Mr. Bas Balkissoon:** Clearly, I understand.

**The Acting Chair (Mr. Steven Del Duca):** Mr. Colle?

**Mr. Mike Colle:** So they basically take these cars hostage, right?

**Mr. Michael Dearden:** Right.

**Mr. Mike Colle:** And then they ask for you to pay up.

**Mr. Michael Dearden:** Right.

**Mr. Mike Colle:** What kind of extortion money do they ask for? How much?

**Mr. Michael Dearden:** I think we've all heard stories. There's hundreds of dollars for tows. There are fees for everything. There's a fee to put it on the hook. There's a fee to take it off the hook. They take it wherever they want. You have to pay an outrageous fee to get it out of storage. If it goes to a body shop, they start tearing it apart right away, and there are charges associated with that.

I made the point—and we have examples of it—where a car is sitting in a gravel lot in the back of some body shop, and the fee to have it sit there for a week is more than it costs to put a family of four up in a good hotel. It's absolutely insane.

**Mr. Mike Colle:** They even start working on the car once they get it too?

**Mr. Michael Dearden:** Well, some of them will start to tear it apart so you can't move it easily or so you can't really see what the damage was.

**Mr. Mike Colle:** Have you ever tried going to the police when this happens?

**Mr. Michael Dearden:** Yes, we've talked with the police about it. The police do not have a responsibility for telling us where our cars go or for controlling the towing industry, it would appear. That's why we believe—as loath as we are, maybe, to have more regulation in the world—that there is a need, given the activity of that industry, to regulate it, and not through self-regulation.

**Mr. Mike Colle:** Yes. So basically you have no one to turn to when this type of fraud occurs, right? There's nobody to turn to.

**Mr. Michael Dearden:** No.

**Mr. Mike Colle:** And how long do you think this has been going on in Ontario, this type of Wild West carjacking, basically?

**Mr. Michael Dearden:** I think it has been going on for quite a while, but as I think I suggested in our statement, it's very much impacted by the opportunity for fraud. The greater the opportunity, based on the greater benefits that are available under insurance programs, the greater it's going to be abused.

**Mr. Mike Colle:** So basically, there's a lot of opportunity for fraud right now, the way the system is.

**Mr. Michael Dearden:** Absolutely.

**Mr. Mike Colle:** It's a free-for-all for fraud artists.

**Mr. Michael Dearden:** Yes. Changes that are going to be made and proposed are all well and great, but we should all realize that this industry of organized fraud has invested a sizeable amount of time and money into this scheme, and they're not going to go away because we change the rules.

**Mr. Mike Colle:** Yes, because we're talking about, basically, a multi-hundred-million-dollar industry—if not a billion-dollar industry—that operates in Ontario an unabated free-for-all. They know they can get away with it. You're saying to be very careful; that self-regulation ain't going to do it.

**Mr. Michael Dearden:** Not in the towing industry.

**Mr. Mike Colle:** No. You need something pretty comprehensive and pretty tough.

The question I always have is: Does this exist—I've never really had a good comparison—anywhere else in the world, or in North America, this type of systemic fraud that occurs with cars? You've got national companies, international companies. Is this thing tolerated anywhere else to this extent?

**Mr. Michael Dearden:** There are other examples, in jurisdictions such as New Jersey. They had a particular problem with it. They introduced a special investigation unit and were able to make substantial progress in cleaning it up. But it comes back to: Basically, if there is money available through the insurance system, be it in the form of benefits or payouts or whatever, people will find a way to try to take advantage of it.

**Mr. Mike Colle:** And that's the other thing you make very, very clear: that you just can't do it with FSCO; you need a dedicated police enforcement unit; you need a dedicated—

**Mr. Michael Dearden:** Prosecution.

**Mr. Mike Colle:** Yes, a prosecution unit. This is serious stuff.

**Mr. Michael Dearden:** Yes.

**Mr. Mike Colle:** And it ain't going to happen without money.

**Mr. Michael Dearden:** No.

**Mr. Mike Colle:** So, in order to pay for this serious policing and the regulation of these fraud artists, how do we get the money?

**Mr. Michael Dearden:** Good question. It's a challenge, and there are a lot of numbers that are kicked around about how much fraud currently is in the system. Unfortunately, you can't just take that money and shift it over to the good guys, but at some point, I suppose the price you pay in society for having laws and enforcing the laws is that there's a cost to society of doing it.

If we can see a drop in insurance—and I believe that when Mr. Gorbet was here, he talked about a discrepancy of approximately \$700 in an auto policy in Toronto and \$300 in policies across the province of Ontario that they couldn't quite account for; he was sort of implying it was probably fraud, but he didn't want to say that. If you can find those savings and turn those into something like enforcement, that would be a great help.

**Mr. Mike Colle:** Yes, and that's the key: You have to find those dollars and hopefully get it out of the fraud contingency line that is never clear. That might be one way of paying for this very serious investment the government is going to have to make, because the industry itself ain't going to do it and hasn't been able to do it.

The last, final question is: Why is it so prevalent in the GTA? Why is it always happening here, this systemic fraud?

**Mr. Michael Dearden:** I think that it has been suggested that there are certain groups of individuals who see this as an opportunity and put a greater effort into creating the fraud. Perhaps there are either enough of those individuals or they feel that they can blend in enough or that there are enough other people in this area who will work with them all through the chain of fraud that they do it in the GTA, opposed to, if they lived in Woodstock, Ontario, they might feel that they were too exposed and known in the community; therefore, they won't do it.

**Mr. Mike Colle:** So they can slip in and be part of the already organized fraud gangs that exist and not be really, you know—not sticking out anyways; they can blend in and get to work right away staging accidents, holding cars hostage and holding the German tourist hostage and the poor driver who doesn't know what hit him or her. This goes on, again, everywhere, every day throughout the GTA, and there's nobody really there putting a stop to it.

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**Mr. Michael Dearden:** Not so far.

**Mr. Mike Colle:** Yes. Thank you very much.

**The Acting Chair (Mr. Steven Del Duca):** Thank you, Mr. Colle. Now we're going to turn to Mr. Yurek for their 10 minutes.

**Mr. Jeff Yurek:** Thanks for coming in. I appreciated your comments. I just wanted to pick up where you were talking about commercial auto insurance. It's something that's rarely talked about here. Just to clarify, you're saying the costs that the insurance companies put out that they pay out—commercial is not included in their costs?

**Mr. Michael Dearden:** No, no, it's included in their costs, but it's not necessarily shared with the government, and the agency whose name slips my mind right now, the acronym—

**Mr. Jeff Yurek:** GISA?

**Mr. Michael Dearden:** Yes, GISA, thank you.

**Mr. Jeff Yurek:** So it's not shared with GISA?

**Mr. Michael Dearden:** It's not shared in the same way. The information that, for example, the task force on anti-fraud vetted did not include all of the claims information from commercial fleets in the province of Ontario, which is quite substantial.

**Mr. Jeff Yurek:** And ACCRO, if I can call it that, they negotiate on behalf of their group for auto insurance? Is that—

**Mr. Michael Dearden:** They do provide, for their smaller members, a group policy similar to many associations, yes.

**Mr. Jeff Yurek:** Do you find it difficult in this province to get commercial fleet coverage for your members?

**Mr. Michael Dearden:** Yes. Generally there's one company in the province that will underwrite it.

**Mr. Jeff Yurek:** One?

**Mr. Michael Dearden:** One.

**Mr. Jeff Yurek:** Why would only one company offer that?

**Mr. Michael Dearden:** It's a bit of a unique product, so not a lot of large companies want to be involved in it. It's a fairly complicated product. We rent our vehicles to people who—we don't have a tremendous amount of information on their background and their history, so it's not as easy as doing a risk profile on Mike Dearden by my insurance company and determining what rates they should charge. It's a complex piece of business.

**Mr. Jeff Yurek:** So the risk is high.

**Mr. Michael Dearden:** Well, it's harder to measure.

**Mr. Jeff Yurek:** Harder to measure. I just make that comment because we now have companies—taxi drivers in Hamilton—who are unable to get coverage. The insurance industry doesn't want to take the risk for the cost involved.

You cover Canada. Outside of Ontario and looking at provinces that do offer not-public insurance, do you have the same difficulties finding coverage for your members? Is it the same?

**Mr. Michael Dearden:** We actually do it all out of Ontario because we're headquartered here, so we use one company in Ontario that provides the insurance nationwide.

**Mr. Jeff Yurek:** So it covers Canada? Okay.

Back to the crown attorney's office, the investigation unit, we fully agree with that on this side. We've been pushing for it for a number of years. You talked about New Jersey. Do you have any other areas where this has worked in the past?

**Mr. Michael Dearden:** I can't remember off the top of my head. New Jersey was one that certainly jumped to mind. We've asked our members from their US operations to provide us with information and we have some of that available we can provide to you.

**Mr. Jeff Yurek:** And you're talking about who would pay for this crime unit. You think it should be a cost-sharing between the government and the insurance agency, or should it just be a role of the government?

**Mr. Michael Dearden:** Well, you're getting into a complex thing here. Whenever you do any crime investigation, it generally falls to the government to be the responsible one to lead on that. Hopes are that this is not a process that goes on forever. Our experience has been that once these investigations units are up and they have a couple of successful cases, it tends to drive out the fraud to a significant level.

**Mr. Jeff Yurek:** Sure. So it might be just a short-term investment in order to long-term gain for ratepayers in the province.

**Mr. Michael Dearden:** But again, it's the opportunity that is afforded by the insurance benefits. The higher those benefits are, the greater the opportunity for fraud. It's that simple.

**Mr. Jeff Yurek:** Do you have any questions?

*Interjection.*

**Mr. Jeff Yurek:** No? I'm good. Thank you.

**The Acting Chair (Mr. Steven Del Duca):** Thanks very much, Mr. Yurek. I understand that you had asked for some documentation or something to be provided to the committee in the course of your questioning?

**Mr. Bas Balkissoon:** From New Jersey.

**Mr. Mike Colle:** The New Jersey solution.

**The Acting Chair (Mr. Steven Del Duca):** The New Jersey solution, so—

**Mr. Jeff Yurek:** Sure.

**The Acting Chair (Mr. Steven Del Duca):** If we can get that information—it's being requested to the committee Clerk—that would be fantastic.

Now I will turn it over to the NDP caucus: Mr. Singh for 10 minutes, please.

**Mr. Jagmeet Singh:** Thank you. Thank you very much for attending today. It's a pleasure to have you here.

I'm going to start with a question that's just kind of a question I've always been curious of. Maybe you can give me some input on it. People talk about, when they rent a car, if they rent it on their credit card and they use a gold card or a platinum card that's got extra coverage

on it, that that covers their car entirely in terms of insurance. From someone involved in the industry, is that true? Is that false? What's the situation on that?

**Mr. Michael Dearden:** If an individual has their own personal insurance that covers them as a driver, then that insurance would cover them when they rent a vehicle. I rented a van last week to move one of my kids back from school, and I paid no insurance on it because my own personal auto insurance covered it. I used a credit card, but it was my own policy.

**Mr. Jagmeet Singh:** Now, what about the separate coverage that you get on a credit card? If it's a gold card, they indicate that they will cover you specifically because you're renting it on a gold or a platinum or one of those cards that have extended services. What is that?

**Mr. Michael Dearden:** Well, it is a system of insurance offered by the insurance company. It may not always correspond with the jurisdiction that you're in, so there is some complexity sometimes in making the two meet. But it does offer a level of insurance, yes.

**Mr. Jagmeet Singh:** Okay. Now, in your capacity, can you explain your position and your role in terms of Canada and advocacy for car rental agencies?

**Mr. Michael Dearden:** ACCRO is—actually, it's a for-profit organization, similar to the CFIB. So it is not a not-for-profit association like others you may meet. But we do represent the interests of the industry across Canada. I do nearly all of the government relations and public affairs work for it. We do training for our members. We assist our members with insurance and a range of other benefits that a typical association would offer their members.

**Mr. Jagmeet Singh:** So you're a for-profit organization, and you represent car rental operators; for example, Avis, Budget—all of the big names.

**Mr. Michael Dearden:** Correct.

**Mr. Jagmeet Singh:** Are there any ones that you don't represent?

**Mr. Michael Dearden:** We represent all the majors. I'm sure that there are some small independents that we do not. In Ontario, we represent 168 individual car rental firms, the vast majority of which are small. They have two or three locations and 10 or 20 cars.

**Mr. Jagmeet Singh:** Okay. And your area of expertise is you represent the interests of car rental companies, I guess?

**Mr. Michael Dearden:** Yes.

**Mr. Jagmeet Singh:** The concerns raised by car rental organizations, companies—what are their major concerns? What are the top two, I guess, major concerns that they have?

**Mr. Michael Dearden:** Well, a major concern is the cost of insurance. That's a huge concern for our members. I mentioned in my remarks that it's an uncontrollable cost in the sense that we control our costs around the vehicles we buy and use, and we control our costs with our staff. Our third-largest cost is insurance.

**Mr. Jagmeet Singh:** And you would fall underneath commercial insurance?

**Mr. Michael Dearden:** Correct.

**Mr. Jagmeet Singh:** We talked about some of the problems, and one of the problems you indicated in your deputation today was that there is a very small pool of insurers that provide coverage. You indicated there's only one. Is that—

**Mr. Michael Dearden:** Correct.

**Mr. Jagmeet Singh:** There's no one else that provides insurance coverage?

**Mr. Michael Dearden:** No, not through ACCRO. Some of the large companies have arranged their own reinsurance agreements and arrangements. Some of those are international, which, of course, is not available to a small operator in Scarborough.

**Mr. Jagmeet Singh:** So a small operator in Scarborough—can they go on their own and try to obtain the insurance through any company they want?

**Mr. Michael Dearden:** Sure. They can.

**Mr. Jagmeet Singh:** Are they able to?

**Mr. Michael Dearden:** Almost inevitably no.

**Mr. Jagmeet Singh:** Okay. So they can only, practically speaking, go through ACCRO.

**Mr. Michael Dearden:** That's correct.

**Mr. Jagmeet Singh:** And ACCRO only has one service provider?

**Mr. Michael Dearden:** That's correct.

**Mr. Jagmeet Singh:** What's the name of that provider?

**Mr. Michael Dearden:** I think right now it's Dominion.

**Mr. Jagmeet Singh:** Dominion. Okay, interesting. Have you made inquiries as to why there's only the one?

**Mr. Michael Dearden:** There's generally only one company that's interested in bidding on the business.

**Mr. Jagmeet Singh:** Now, your concern, primarily—if we're talking about reducing the cost of auto insurance commercially, that's something, obviously, that you'd be interested in?

**Mr. Michael Dearden:** Absolutely.

**Mr. Jagmeet Singh:** Has Dominion anecdotally indicated to you why their rates are so high and what they can do to bring the rates down?

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**Mr. Michael Dearden:** They've justified it. They have to justify their rates to FSCO in the same way that they do for underwriting a personal policy, so they're based on their assessment of the risk. We understand that. They're based on the assessment and the cost of what they have to pay out, and those costs are largely dictated by legislation and regulation, so it all flows back to that.

One of the things that we really feel there is a much greater need for is the sharing of good information among all those in the insurance industry. We appreciate that there are privacy concerns. We appreciate that there are competitive concerns between insurers. But we think that through FSCO and the arms of the government responsible for the collecting and understanding of insurance and claims information, there should be better cross-sharing so that we can better deal with fraud and

fight it, and the insurance industry and the government can better understand it.

**Mr. Jagmeet Singh:** In your capacity as someone with ACCRO, do you have any rough figures, based on some evidence, in terms of fraud costs that are in the system?

**Mr. Michael Dearden:** We've noticed a substantial dip. When the government moved to introduce a new cap of \$3,500, we noticed a substantial dip in the number of claims and the size of claims.

**Mr. Jagmeet Singh:** The number of claims in what sense?

**Mr. Michael Dearden:** The number of claims submitted.

**Mr. Jagmeet Singh:** Submitted to your organization?

**Mr. Michael Dearden:** Through us. That's correct.

**Mr. Jagmeet Singh:** So you've noticed a significant reduction in claims.

**Mr. Michael Dearden:** That's right. It almost strikes you as, it wasn't worth making the claim anymore.

**Mr. Jagmeet Singh:** Right. That's been the evidence that's out there, that the claims costs have dropped dramatically. In fact, people have said that this is the most historically significant reduction in claims costs in the province of Ontario, period.

**Mr. Michael Dearden:** I'm sorry, I don't have enough of a history perspective, but certainly we've noticed it.

**Mr. Jagmeet Singh:** Okay. Are you aware of any practices that occur, specifically in your area of expertise within ACCRO, that contribute to higher costs in the system?

**Mr. Michael Dearden:** I've mentioned in my comments that we have a great concern about the number of bodily injury claims that arise out of accidents involving rental vehicles where there is little or no damage to the rental vehicle. The scenario is that two different people rent two different cars and they load them up with eight people, and they run into each other in a parking lot. They return the rental cars and they all claim whiplash and sore backs, and start into the process of going through therapy and—

**Mr. Jagmeet Singh:** So that's the situation where there are two rental cars involved?

**Mr. Michael Dearden:** Sure. Sometimes it is.

**Mr. Jagmeet Singh:** Do you have any sort of evidence or statistics or numbers based on that, or are these just anecdotal things that you've come across?

**Mr. Michael Dearden:** Anecdotal information we have, yes.

**Mr. Jagmeet Singh:** Okay. So again, that's not something you can support in terms of a trend or in terms of hard numbers; it's just something that you've experienced.

In terms of insurance companies themselves perhaps not monitoring how long someone is renting a car or a claim being submitted that doesn't make sense—are you aware of any of those circumstances, anecdotally?

**Mr. Michael Dearden:** No, I'm not. If I understand the question, no, I'm not.

**Mr. Jagmeet Singh:** Okay. On the rental side, is there anything that can be done that would prevent extra costs in the system?

**Mr. Michael Dearden:** I think the thing that would help us the most would be if we were aware of or had some information on potential renters who had been involved in fraudulent activity in the past. We simply don't have that information when someone walks in the door. While another insurance company can look at someone's record and understand what kind of a risk they represent, when they walk in our door, as long as they have a driver's licence—

**The Acting Chair (Mr. Steven Del Duca):** One minute left.

**Mr. Michael Dearden:**—which is right, then we have no idea.

**Mr. Jagmeet Singh:** That would indirectly impact your actual costs as a company. You're saying that this would have a trickle-down effect, that if you can control your costs on your end you might see a benefit down the road by the insurance companies recognizing that there's a reduction in cost and passing that on to you.

**Mr. Michael Dearden:** Right. It's a reduction system. We have a great concern that if you correct the problem of fraud under personal auto insurance, it will simply migrate to commercial auto insurance and use that, because they're not going to give up, given the investment they've put into building these huge organized-crime organizations. They'll go wherever they can.

**Mr. Jagmeet Singh:** Okay. And you haven't seen any trickle-down effect so far for the commercial auto insurance rates. They haven't gone down, have they?

**Mr. Michael Dearden:** They've improved a bit, yes.

**Mr. Jagmeet Singh:** Since when?

**Mr. Michael Dearden:** Since 2010.

**Mr. Jagmeet Singh:** And how much have they improved by, industry-wide?

**Mr. Michael Dearden:** I can't remember off the top of my head, but it's noticeable. It's certainly above 10%.

**Mr. Jagmeet Singh:** Reduction in rates?

**Mr. Michael Dearden:** Yes.

**Mr. Jagmeet Singh:** And you know that personally they've gone up by 5%?

**Mr. Michael Dearden:** Yes.

**The Acting Chair (Mr. Steven Del Duca):** Thank you very much. We've come to the end of the 10 minutes. Thank you, Mr. Dearden, for being with us here this afternoon. Much appreciated.

**Mr. Michael Dearden:** Thank you.

#### COMMITTEE BUSINESS

**The Acting Chair (Mr. Steven Del Duca):** I understand that we have a bit of housekeeping to take care of. This is my first time trying this, so I hope everyone goes easy on me.

I believe that prior to today, the subcommittee had a chance to have a discussion about inviting an additional guest, GISA, to come in on Monday. The majority decided that we would do that. I also understand that there might be an interest in bringing some other witnesses to come forward.

I think part of the logistical problem or challenge is that there's one spot left on Monday so, of course, it's up to the committee to decide if we want to invite additional witnesses beyond GISA, but I gather that if we do, that might mean scheduling going on to Wednesday.

**Mr. Jeff Yurek:** Chair, if I can?

**The Acting Chair (Mr. Steven Del Duca):** Yes, Mr. Yurek?

**Mr. Jeff Yurek:** I would like to bring a member from OSFI. If we're going to have GISA at the table, OSFI is what the—

**Mr. Mike Colle:** It only makes sense—

**Mr. Jeff Yurek:** Well, you know, they use GISA's records, so I thought that would make a good balance to this committee.

**Mr. Bas Balkissoon:** Sounds good.

**The Acting Chair (Mr. Steven Del Duca):** So would that mean, then, that people are open to extending on to Wednesday and going into another time slot on Wednesday?

**Mr. Jagmeet Singh:** Yes.

**Mr. Jeff Yurek:** We're here until June 7, so—

**Mr. Bas Balkissoon:** But we should have the two of them on the same day.

**The Acting Chair (Mr. Steven Del Duca):** Both on Wednesday?

**Interjection:** If we could, that would be—

**Mr. Jagmeet Singh:** If we do two—sorry, let's keep it in order. Who's first?

**The Acting Chair (Mr. Steven Del Duca):** Mr. Singh, go ahead.

**Mr. Jeff Yurek:** I'm a Y, so I'm always last.

**Mr. Jagmeet Singh:** No, I just wanted you to finish your point. I didn't want to cut you off.

I think we could address a couple of things. One, if we're going to open up Wednesday, first of all, let's make sure that we all agree. I think we should open up Wednesday. So we have Monday, and let's open up Wednesday so that we can get both people in. If we get OSFI and GISA in both, that's fine. But if we're opening up Wednesday, let's actually open it up to some more, and we can hear some more deputations. There are other folks that I know are very interested in giving their deputations and their input on the industry. So let's do that, then.

Can we all agree on those two points to begin: that we want to hear from both GISA and OSFI, and let's open up Wednesday to hear more deputations?

**The Acting Chair (Mr. Steven Del Duca):** I understand from the Clerk that if we open it up to Wednesday and we have OSFI and GISA here, that will leave two additional spots open. So if the committee is inclined to—

**Mr. Bas Balkissoon:** Who do we have on Monday?

**The Acting Chair (Mr. Steven Del Duca):** Well, if the desire is to have both GISA and OSFI on Wednesday, on the same day, then we would have no one on Monday.

**The Clerk Pro Tem (Mr. Trevor Day):** We have a full line except for one spot.

**The Acting Chair (Mr. Steven Del Duca):** Sorry, a full line except for one spot. I misunderstood.

**Mr. Bas Balkissoon:** This is Mr. Colle's request on Monday?

**Mr. Mike Colle:** No, Rocky is very, very uneasy about coming, so he's not going to come.

**The Acting Chair (Mr. Steven Del Duca):** So if I understand it, we'd have one open spot on Monday and two open spots on Wednesday.

**The Clerk Pro Tem (Mr. Trevor Day):** One open spot on Wednesday.

**The Acting Chair (Mr. Steven Del Duca):** Sorry, one open spot on Wednesday.

**Mr. Jagmeet Singh:** Two spots? Okay, so we'll try to fill those spots, then.

**Mr. Mike Colle:** Yes, we get some real people, GISA and OSFI and get some real human beings—

**The Acting Chair (Mr. Steven Del Duca):** Okay, so it's advertised to whoever calls in. So we're good with that?

**Interjections:** Yes.

**The Acting Chair (Mr. Steven Del Duca):** Okay. Mr. Singh?

**Mr. Jagmeet Singh:** Particularly, my concern is that with OSFI and GISA, I'm going to have a lot of questions. So I'm going to ask the committee to consider this: Let's reduce their time for their presentation, because, really, we're trying to find the facts. We want to have certain information that we're concerned with. Can we reduce the presentation to five minutes?

**Mr. Mike Colle:** Oh, you can't shut GISA down. If we bring them here—

**Mr. Jagmeet Singh:** We're not going to shut them down. What we're doing is we're going to ask them questions that—

**Mr. Mike Colle:** Let GISA speak.

**Mr. Jagmeet Singh:** Mr. Colle, do you want to speak first or would you like me to speak first?

**Mr. Mike Colle:** No, with GISA, if we bring them here, let's—

**Mr. Jagmeet Singh:** So my suggestion to the committee, if the committee is interested, is that instead of allowing either OSFI or GISA to have 10 minutes to present, to reduce that to five minutes and give us 15

minutes to ask questions so that we can ask the questions that we want; we can get the information that we're concerned with.

**Mr. Mike Colle:** I'll give up my time to GISA. Let them go on all day—

**Mr. Bas Balkissoon:** What were the rules we had for FSCO?

**The Clerk Pro Tem (Mr. Trevor Day):** The same as everybody—it was 10 minutes and then 10, 10 and 10 for questioning.

**Mr. Bas Balkissoon:** So, then, I guess we should stick with it.

**Mr. Jagmeet Singh:** My issue is that I always feel, particularly with witnesses—

**Mr. Mike Colle:** I'll give you my time to speak.

**Mr. Jagmeet Singh:** I appreciate that.

**Mr. Mike Colle:** No problem.

**Mr. Jagmeet Singh:** Particularly with people that have a lot of information to give, we run out of time. So I think that if we reduce their presentation and ask more questions—if everyone is okay with that?

**The Acting Chair (Mr. Steven Del Duca):** I'm going to throw it out to the committee to decide whether—

**Mr. Bas Balkissoon:** Chair, why don't we schedule Wednesday, the two groups, leave the 10 minutes as it is and don't add anybody else, and give everybody the extra five minutes for questions?

**The Acting Chair (Mr. Steven Del Duca):** It's up to the committee.

**Mr. Mike Colle:** Let the member be with GISA all afternoon, for all I care.

**The Acting Chair (Mr. Steven Del Duca):** Mr. Singh.

**Mr. Jagmeet Singh:** So the suggestion would be to have two slots. That's more time to ask some questions.

**The Acting Chair (Mr. Steven Del Duca):** That would give you more time.

**Mr. Jagmeet Singh:** Yes. That sounds good.

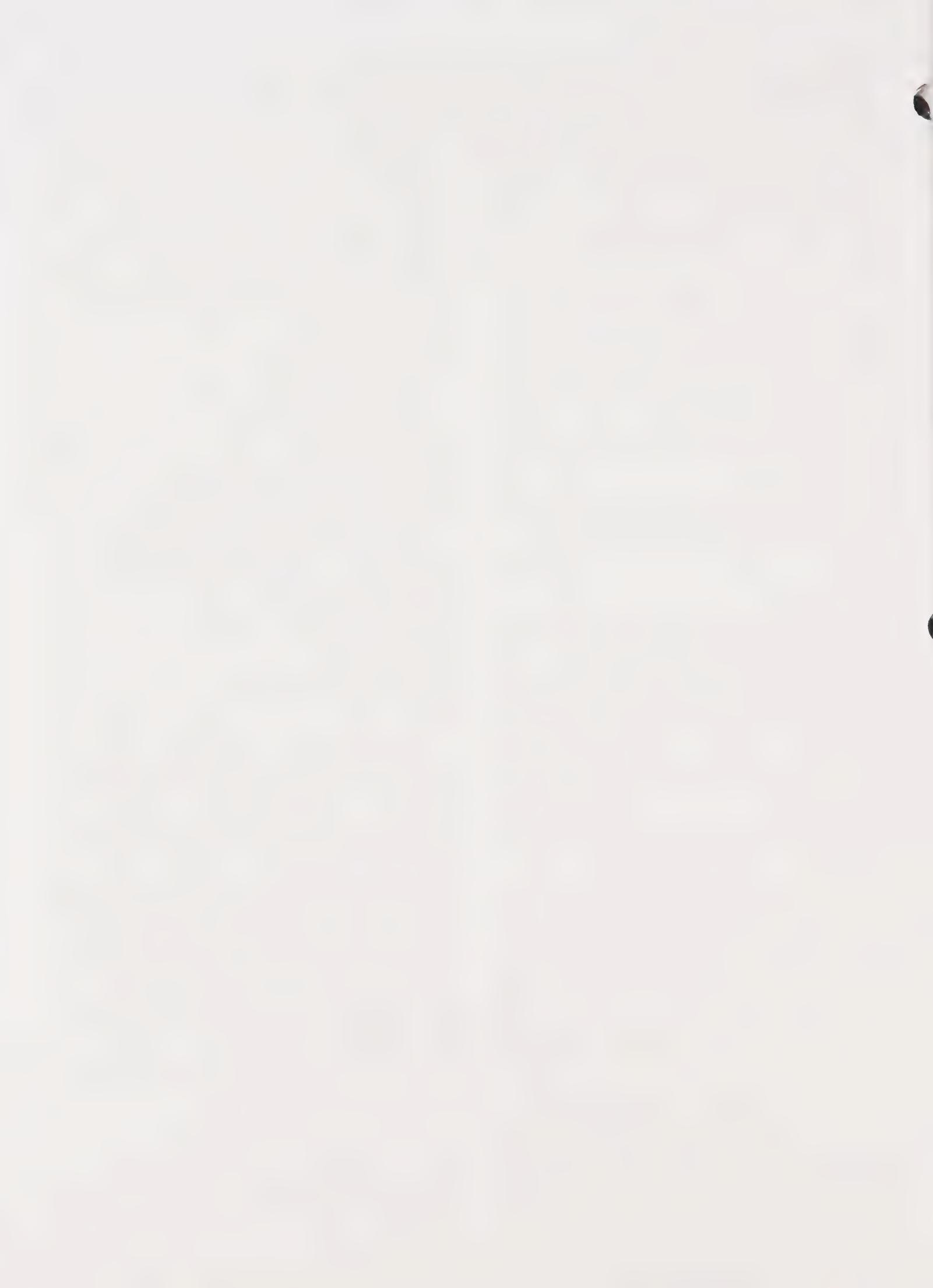
**The Acting Chair (Mr. Steven Del Duca):** Everybody is agreeable to that?

**The Clerk Pro Tem (Mr. Trevor Day):** Just so I'm clear, what we're going to do is—we still have a spot on Monday if someone calls in. We're opening it up to Wednesday and we're going to split the Wednesday time pretty much in two: 10 minutes for their presentation, but the additional time will be used up in questioning. Okay?

**Interjection:** Yes.

**The Acting Chair (Mr. Steven Del Duca):** Thanks very much. Meeting adjourned.

*The committee adjourned at 1750.*





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of Ontario**

Second Session, 40<sup>th</sup> Parliament

**Assemblée législative  
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Deuxième session, 40<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Monday 6 May 2013

**Journal  
des débats  
(Hansard)**

Lundi 6 mai 2013

**Standing Committee on  
General Government**

Automobile insurance review

**Comité permanent des  
affaires gouvernementales**

Examen de l'assurance-  
automobile



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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Monday 6 May 2013

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Lundi 6 mai 2013

*The committee met at 1404 in room 228.*

## AUTOMOBILE INSURANCE REVIEW

**The Chair (Mr. Bas Balkissoon):** We'll call to order the Standing Committee on General Government. We'll just have a small break so we can change the Chair.

Come on over, Rick.

**Mr. Rick Bartolucci:** Okay. Do we need a motion or anything?

**The Chair (Mr. Bas Balkissoon):** No.

**The Acting Chair (Mr. Rick Bartolucci):** Okay, good afternoon, everybody. Let's get started. We have one, two, three, four, five deputants. Just a reminder that they have 10 minutes, and then we each have 10 minutes for questions. We do not have to use our 10 minutes if we don't want to use our 10 minutes.

## MR. RON VAN KLEEF

**The Acting Chair (Mr. Rick Bartolucci):** We'll move forward with our first deputant, which is Ron Van Kleef. Is Ron here? Ron, come forward, please. Welcome to the committee.

**Mr. Ron Van Kleef:** Thank you.

**The Acting Chair (Mr. Rick Bartolucci):** Go ahead.

**Mr. Ron Van Kleef:** Thank you for allowing me to make an oral presentation today. I represent the Hamilton area. I'm the president for Hamilton Cab Co. in Hamilton. Also, we have roughly half of the taxis on our fleet, which represents 200 of the 425 of them that represent Hamilton.

I'm here today because of an extreme situation that has occurred this year in January. Of the 425 taxis in Hamilton, there was no notice of renewal, of non-renewal given. So, as we currently are now, as renewals come up during the course of this year, there are non-renewals happening as we speak. All renewals are different between each party.

I'll give a little history on myself. I've been in this industry since I was a young boy raised in Hamilton. I'm now the president of the company and worked from the ground roots up to where I am now, and that's driving a cab, dispatching, managing and hiring and firing drivers.

We employ 500 people in Hamilton that rely on this business. I also sit on a lot of committees in Hamilton and represent a lot of other areas as well. This is a great

concern to us in the area, as the investment of many of the people that have invested for purchasing taxis, employing themselves and employing drivers—they collateralized houses to purchase vehicles or taxi plates and operating a business. Now the informed renewal packages they're getting from the insurances is only one entity, which is a Facility. I know that we're all aware of what that is; Facility is the end-of-the-road type of insurance. A lot of these drivers have been renewed at \$16,000 to \$20,000 per year, whereas last year they were \$5,000 to \$6,000.

We get explained that the reason being—a lot of them are coming to me because they sublet the plates through our company or a dispatch company, and they won't be able to afford it, so it's going to put them out of business. A lot of them haven't renewed. Some of them are hanging on to see if something does happen. I've never seen anything like this in the history that I've been in this business. There's always been a solution, but unfortunately there are no insurance companies that are writing our area; they've all pulled out of the market. For what reason? I don't know.

I have a claims history that was given to me for all the vehicles in the area, because we only operate out of Hamilton; we're specific to the insurance in Hamilton only—the jurisdiction—as Toronto is, or Oakville or Brampton or whoever. So, our area, for some reason, and Brampton, has been targeted for non-renewal.

Officially, I haven't got a reason why. I've looked at the claims history and seen that there are a lot of injury reserves put aside, a lot of claims—I'm being told that it's fraudulent claims of benefits of accidents, because none of the vehicle coverage, the actual physical damage of the vehicles, is being submitted. A lot of these drivers pay out-of-pocket not to put it through the insurance. So a lot of the claims that are coming through are either third party or passengers in the vehicle.

One of the other things that they've mentioned too was the insurance company saying that Hamilton has a high risk of low-income people on subsidy, disabled, riders with no personal insurance.

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The way that the no-fault works, as you know, if you're a client in the cab, if the client that's in a vehicle has no insurance, it goes to the driver's insurance. What the insurance company is saying is, there are too many of these types of people with no personal insurance, because

if you or I are in a taxi and get into an accident, our insurance would kick in for coverage for ourselves. But, unfortunately, they're saying that the Hamilton area—and I do believe some parts of Toronto and Brampton are also facing the same challenges.

These are an unknown, why this is happening. All we get is that they've put reserves aside, and when I look at the claims, they're putting reserves aside for three quarters of a million dollars for whatever reason. It's not explained. It's a big situation in the area that we're trying to face and deal with. I don't know what road—I've met with some of my MPPs in the area and discussed the situation, and that's why I'm here today. It was recommended that I come and speak.

I'll give you an example of an operator. We do have a current operator—he's been in the business for 30 years. He owns his own taxi plate. He drives. He's never been in an accident, never put a claim in. I do not understand why that would happen, why he would not be renewed; and he's being told that it's \$16,000 to \$20,000 when he's the only driver, has a mortgage, has a family. He's one of many others.

I do believe there's a lot of fraudulent cases going on, and it hasn't been defined or actually laid out as to what they are. I know in the current personal industry, you're dealing with, as far as the cutbacks, 10% to 15% on regular people's insurance. I don't understand why other people are punished for a minority group when the majority of the claims are maybe an isolated few. I'm not sure how insurance companies rationalize their reserves. They put them aside and then they say that there are too high claims, and I don't know how they do that. I don't know how they can say that that is allocated for the future.

These are many of the unknowns that we're faced with, and there's nothing we can do at this point except to voice our opinions. It's critical. We've got a lot of people. We might be parking a lot of vehicles on the road. There might be half the fleet parked within the next six months. If we don't do something now, it's going to be a bad situation in our city.

I believe that Brampton and Toronto are also facing some similar challenges, and we need to deal with that ASAP. But I don't understand how insurance companies are not—it's almost like they don't touch it, don't touch the area, and it's very concerning as to how that can be. I think that's where—we don't understand that.

As I said, a lot of lawyers, fraudulent claims are going on, and I think that's the nature the insurance company is facing, that every person is putting in a claim, and it causes a lot of outlay for the insurance companies, probably for lawyers' costs to represent their party, the person that's insured for a claim. It could be a minor claim; it could be anything, but it's cost, and I do know that there is cost to that. As far as that part of it, we're pretty much sitting there in the city not sure how to deal with it. We're hoping that the government steps in and tries to change or find out why this is happening.

**The Acting Chair (Mr. Rick Bartolucci):** You have two minutes left.

**Mr. Ron Van Kleef:** Two minutes? Thank you.

I'm not sure how far we go with this or how much the insurance companies will listen. I know that they are governed through our province and I hope that you report back and say that we need to deal with this ASAP, because a lot of people's livelihoods depend on this. When you're dealing with 500 employees, drivers and their families, it's a tough thing to deal with, and I can appreciate that.

I am here today to try to inform you, to give you some information. If there's anything else you would need, I can put it in the format of a letter of all concerns that I can forward off to everybody here at the committee, with relevant information. I think that's about it for now.

**The Acting Chair (Mr. Rick Bartolucci):** All right. Thank you very much for a very, very insightful presentation.

We'll start off with the Progressive Conservatives, and then we'll move to the NDP and then to the Liberals. In the next round, we'll move to the NDP, the Liberals and then the PCs, all right?

**Ms. Laurie Scott:** Sure.

**The Acting Chair (Mr. Rick Bartolucci):** Okay. Laurie?

**Ms. Laurie Scott:** Okay. Thank you very much for appearing here. I was just trying to get some clarification from my riding, which is Haliburton-Kawartha Lakes-Brock, because we did have a phone call, and I don't know if it was limo services or cab insurance. Do you know if there are limo services that are not being able to get insurance either?

**Mr. Ron Van Kleef:** No. I have a limousine company as well—separate. I have no issues with that at this present moment, but that could be something down the road that we're facing. I haven't heard anything. Again, we have a good record. If you're operating a good business, then you should be rewarded for operating a good business.

**Ms. Laurie Scott:** Have you ever phoned the insurance companies or the Insurance Bureau of Canada to ask why?

**Mr. Ron Van Kleef:** They won't talk to us, because it's your broker. We can only talk to a broker. We can't deal directly with insurance companies.

**Ms. Laurie Scott:** And did you talk to the broker? Was there any—

**Mr. Ron Van Kleef:** Yes, and he's facing the same challenges. He just says, "I can't. There's no market." So when there's no market, you go to Facility insurance, and Facility is for the worst. It doesn't matter if it's business or a private person; you have to go to Facility. If you have a bad record on your own personal insurance—if you can't get an insurance company to insure you because of your record—you go to Facility, and it could be a \$15,000 premium.

**Ms. Laurie Scott:** But this is for your company, not individual drivers, right?

**Mr. Ron Van Kleef:** This is for our taxi driver, yes—the guy who writes the policy for the actual taxi plate.

**Ms. Laurie Scott:** Okay. You don't know of any other places in the GTA or Hamilton area?

**Mr. Ron Van Kleef:** Hamilton-specific—nobody is writing Hamilton.

**Ms. Laurie Scott:** Nobody's writing at all?

**Mr. Ron Van Kleef:** No.

**Ms. Laurie Scott:** So what exactly are you doing? Are you going without? Are you paying these bills? Or should I ask that question—

**Mr. Ron Van Kleef:** They're renewing on a hope—of a six-month policy in the interim—that things will change.

**Ms. Laurie Scott:** So they're actually signing a six-month—

**Mr. Ron Van Kleef:** They're signing a six-month renewal based on the hope that there's something being done about this. That's what we're facing here.

**Ms. Laurie Scott:** I'm glad you came forward today, because I heard some inklings, and then it kind of went quiet, so I didn't know what had happened.

Thanks for bringing it to our attention. We'll follow up. Do you think the ministry is aware?

**Mr. Ron Van Kleef:** We sent a letter—we had a letter sent to—where is it?

**Ms. Laurie Scott:** There has been no response, though, from whoever—

**Mr. Ron Van Kleef:** FSCO—

**Ms. Laurie Scott:** FSCO, yes.

**Mr. Ron Van Kleef:** —to [fSCO.gov.on.ca](http://fSCO.gov.on.ca)—to the CEO.

**Ms. Laurie Scott:** And there has been no response yet?

**Mr. Ron Van Kleef:** We've had no response.

**Ms. Laurie Scott:** And how long ago was that, that you sent the letter?

**Mr. Ron Van Kleef:** That was February 1.

**Ms. Laurie Scott:** Okay. Do you mind sharing a copy of that with us?

**Mr. Ron Van Kleef:** Yes, I can do that.

**Ms. Laurie Scott:** Okay, all right. I'll pass it over to my colleague.

**Mr. Todd Smith:** Thanks again, Ron. Obviously, this is a huge ordeal for a business owner like yourself, to have to face this kind of a challenge.

When you have heard that fraud may be the root cause of what's driving up the costs for your individual taxi drivers in this case—I'm just curious to get your thoughts on what the government and the NDP have teamed up to do here in our latest budget, which is to drive insurance rates down by 15%. When you talk about the increases that you've talked about, and the inability, I guess, in the first place to get insurance, is this going to solve your problem in any way?

**Mr. Ron Van Kleef:** Jeez, I can't answer that, I don't think. I just don't understand how you can punish the whole industry for a minority group of people—whoever is operating the vehicles—who do have the claims against them, and for whatever reason—it may be legit; I don't know. I'll give you an example of someone who

has driven for 30 years—and the same for everybody here who has personal insurance. Why should everybody else be jacked up for being a good customer and having no claims?

That's why I don't understand how they can shut off the whole industry of Hamilton, let's say, as an example. The ones that are chronic: Yes, you deal with those ones. But the ones that are good: Why are you punishing that person? It's not fair. So I don't understand the insurance companies' whole thinking on that.

I've dealt with insurance for 30 years, so I've been through this. In the late 1980s, I think, we had the same situation, but it got resolved.

**The Acting Chair (Mr. Rick Bartolucci):** Ron, we're going to ask for a copy of that letter, and Sylvie's going to get it run off for the committee right away. Thanks. Sorry for interrupting, Todd.

**Mr. Todd Smith:** No problem.

How many claims would there be in a year for your taxi company?

**Mr. Ron Van Kleef:** I have the claims history here with me, but it doesn't explain—and that's the problem with it. It's very vague. It's just numbers at the bottom, saying "loss ratios, reserves put aside." There are no names, no nothing. It's just more of a general list, an Excel spreadsheet-type thing, but it doesn't really explain what they are. Most of them are third party claims for benefits and disability claims.

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That's why I was trying to explain that there's no physical of the vehicle. There's no payout at all on a lot of these claims. It's more of the benefits and the ongoing forecasts—the reserves that they put aside. The insurance company puts aside a reserve, so if you get in an accident, they're saying, "Okay, \$250,000 is put aside for that person," hoping that will take care of it in the next five to 10 years, but what they do is, they have two or three or four of those claims, and they'll keep them as a thing against the actual record of your claims history. That's why they're saying there's a risk. Hamilton seems to have a higher risk than everybody else. I don't know what the explanation is.

**Mr. Todd Smith:** I represent a riding which covers the Belleville area. There are a number of cab companies in the Belleville area, and I can tell you that some of the companies don't hire drivers that are under the age of 25 because of the high costs to insure those drivers. Would that have any impact on the drivers that you have working for you, or is it just an across-the-board—it doesn't matter what your driving record is; you're not getting insurance.

**Mr. Ron Van Kleef:** No, 25 is the limit for insurance. The same insurance companies that insure Belleville insure Kingston and Ottawa. Those companies will insure those other markets, but Hamilton? No, and that's why it's disturbing. It's just like, how can you just pick Hamilton and say "no," when the same insurance company—I have a letter here from Aviva, their letter to you guys in the government, April 4, 2013, trying to change

the industry—their industry, the insurance industry. That's something I could add as well, on the record.

**Mr. Todd Smith:** But you did mention fraud, and fraud has come up in your conversations with insurers.

**Mr. Ron Van Kleef:** Yes.

**Mr. Todd Smith:** Do you not think it would make more sense, instead of putting out an across-the-board 15% rate reduction, then, to try and root out the cause when it comes to fraud?

**Mr. Ron Van Kleef:** I don't know.

**Mr. Todd Smith:** If that's what's responsible for getting you in the predicament you're in, if it's fraud, wouldn't it make more sense to follow the guidelines of the anti-fraud task force and try and—

**Mr. Ron Van Kleef:** It should. I don't know how much—and it doesn't analyze here. It doesn't separate what fraud is—the portion of the liability claims that are third party for injury. A lot of them are customers, too; there are a lot of fraudulent claims that come through our ridership. It's at a point now where, "Okay, you can't get in the cab unless you've got personal insurance," because that's how it resorts. If you're in an accident and you're in the cab—say you went out on a Friday night or something and you need to take a cab home. If I got in an accident, my personal would take care of me, whereas they're saying that Hamilton has a high ratio of welfare, social assistance, disabled, low-income, ODSP-type customers in that area, and it's almost like it's a monopoly of insurance companies getting together and saying, "Don't write in Hamilton." That's the perception I'm getting and the feedback I'm getting.

**Mr. Todd Smith:** Because one of the things we've heard about during testimony here in front of this committee, is that if they bring in this across-the-board 15% reduction in auto insurance rates, it's actually going to drive competitors out of the province and it's going to make it more difficult for companies like yours to acquire auto insurance.

Back to what we're talking about here, this proposal by the government and the NDP for across-the-board rate decreases for auto insurance: It's going to have a negative impact on small businesses like yours. I understand the situation that you're in; obviously, you're scratching your head trying to figure out what to do next, but coming here is a good first step, and thanks for coming in here. Thanks, Chair.

**The Acting Chair (Mr. Rick Bartolucci):** Thanks very much, Todd. All right. We're going to move to the NDP now. Ron, representing the NDP is Jagmeet Singh.

**Mr. Ron Van Kleef:** Okay.

**The Chair (Mr. Rick Bartolucci):** Jagmeet?

**Mr. Jagmeet Singh:** Thank you so much. Thank you so much for being here, Mr. Van Kleef. Just to touch on a couple of points and just perhaps to clarify some of the things that Mr. Smith, my colleague over here from the PCs, was indicating: One of the things that I think you might find—I want to hear your response to this. The IBC's facts and figures on this and the industry figures on this are that, across the province of Ontario, 80% of

people with personal automobile insurance never make a claim in their lives. The vast majority of people never actually make a claim, and there's only 20% of people—the average in the province—who actually make a claim in the first place.

Knowing that the vast majority of people never make a claim ever, that only 20% of people actually make a claim—and, so far, the only numbers that we have in terms of fraud are based on the Auditor General's report. He represents the entire province and does great work in auditing. He attributes fraud to be about 10% to 15% of the total cost.

So if 20% of people actually make a claim, and fraud is only 10% to 15%—you indicated that it's a minority. The numbers show that it's a very, very small, small minority of people. Does it make any sense to you, then, given the fact that the majority of people don't make the claims and that the fraud is a small percentage, that that's being used as an excuse for why rates are—they're not covering you in Hamilton?

**Mr. Ron Van Kleef:** I would say so, because when you're looking at personal insurance, it's different than a transport carrier like ourselves, as a commercial vehicle, because we're carrying people.

**Mr. Jagmeet Singh:** Exactly.

**Mr. Ron Van Kleef:** So you can't compare that. It's a different—I guess it's like apples and oranges. You've got different situations there, and you're dealing with reserves and a lot of the—they put the reserves aside for the industry, and they usually go high.

**Mr. Jagmeet Singh:** Okay. And just talking about that, actually, one of the things that's getting mixed up a bit is that there's personal automobile insurance—not for a commercial purpose—and then there's commercial insurance. Those two things are obviously different. Your company deals with the commercial side. Is that right?

**Mr. Ron Van Kleef:** Correct.

**Mr. Jagmeet Singh:** So just to understand the situation and how dire it is in Hamilton, what I understand is that the exact same person, the same driver, with the same claims record and the same driving record, was being charged something around \$5,000 to \$7,000 previously, and then in one year's time, that same person is now being asked to renew for \$16,000, \$17,000, almost \$20,000. Is that the situation?

**Mr. Ron Van Kleef:** Yes.

**Mr. Jagmeet Singh:** So it's not a case that there has been an increase in terms of what you know as the president of your company, that over one year's time there has been a significant increase in claims or your drivers all of a sudden have become dangerous drivers. That hasn't happened in one year's time, has it?

**Mr. Ron Van Kleef:** No, and that's why I looked at the history of these claims that was presented to me from the insurance broker. It's all of Hamilton. It's a combination of the last two or three years.

**Mr. Jagmeet Singh:** And it doesn't show that there's this big spike or this big increase in terms of the claims in your industry?

**Mr. Ron Van Kleef:** No. Also, there's an at-fault chart. The at-fault chart says how many accidents are at fault or not at fault, and the majority are not at fault.

**Mr. Jagmeet Singh:** The majority of your cars—

**Mr. Ron Van Kleef:** Yes, they're not at fault. There's the odd one or two that are the ones that are creating concern—the reserves.

**Mr. Jagmeet Singh:** So not only is there not an increase in terms of the claims, from what you're seeing in your reports, but in fact there's not even any increase in at-faults in terms of your drivers?

**Mr. Ron Van Kleef:** No.

**Mr. Jagmeet Singh:** Okay. And just to kind of understand what this means to an actual employee, one of your employees—you have 500 employees in your particular company. Is that correct?

**Mr. Ron Van Kleef:** Yes, at our company, and probably the same in the other one.

**Mr. Jagmeet Singh:** In total, how many drivers do you think there are—

**Mr. Ron Van Kleef:** Some 800 to 1,000.

**Mr. Jagmeet Singh:** Some 800 to 1,000.

**Mr. Ron Van Kleef:** Part-time, full-time—mostly full-time, because there are day and night drivers, so there are two shifts.

**Mr. Jagmeet Singh:** Sure. So let's talk about a full-time driver. If a full-time driver has to renew their insurance at somewhere between \$15,000 and \$20,000, what does that mean in terms of their—I mean, we all know that's a high amount. That must be, obviously, a serious issue.

**Mr. Ron Van Kleef:** Yeah.

**Mr. Jagmeet Singh:** Paint the picture for us: How serious is that? I mean, would that person be able to continue to be a taxi driver?

**Mr. Ron Van Kleef:** Probably not. When you're looking at the insurance cost jumping from \$5,000 to \$20,000, it's a significant amount of money a year—and not only that but the fuel costs, the repair costs. So when you're looking at it, they're saying, "We can't afford to operate." When they're taking food out of their mouth to put it in the insurance, they're not able to survive, so they just stop.

**Mr. Jagmeet Singh:** They just stop?

**Mr. Ron Van Kleef:** Yes. They can't do it.

**Mr. Jagmeet Singh:** They just can't do it. So in terms of your opinion, if nothing changes and if things continue to go in the direction that they're headed right now, where the rates are so high, what do you predict in terms of the 800 to 1,000 taxi drivers in Hamilton? What's going to happen to them?

**Mr. Ron Van Kleef:** Each driver will have to pay a little bit more money.

**Mr. Jagmeet Singh:** And do you think there will be a drop in terms of how many taxi drivers are actually going to operate in Hamilton?

**Mr. Ron Van Kleef:** Yes, half.

**Mr. Jagmeet Singh:** You think half of them won't—

**Mr. Ron Van Kleef:** We won't have drivers.

**Mr. Jagmeet Singh:** Okay. What's the impact on that in terms of Hamilton in general? What would the impact be, in your opinion, in terms of keeping—

**Mr. Ron Van Kleef:** Some 400 or 500.

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**Mr. Jagmeet Singh:** Okay. And then in terms of the actual city itself, I'm assuming that's going to be a big problem: being able to find a taxi, being able to get around in the city. Do you have any sense of how much of an impact that would have on the city itself, not having half of the taxi drivers basically being able to provide those services?

**Mr. Ron Van Kleef:** And you'd be servicing 50% of your customers. You wouldn't be able to do it, because you need the vehicles—a lot of seniors, a lot of hospitals. We transport the disabled community a lot as well. So you're looking at all aspects of the citizens of Hamilton. It's going to affect everybody. And the other thing, too: drinking and driving. You won't be able to get a cab at night. People are going to start driving their cars—Burlington has a tough time as well.

**Mr. Jagmeet Singh:** That's a good point.

**Mr. Ron Van Kleef:** The people will be driving home who can't get a cab. So now you're going to be fighting the "Well, I couldn't get a cab, so that's why I drove home drunk."

**Mr. Jagmeet Singh:** That's a good point.

**Mr. Ron Van Kleef:** And I know this because I see—we know what goes on at night. Friday or Saturday nights are one of the busiest nights. When you're trying to promote people to take a taxi home, you're now cutting yourself short there because you've only got half the vehicles anymore, and you may be lucky to get one.

**Mr. Jagmeet Singh:** Okay. One of the other things you brought up—and I had something that I've actually been raising. In some of the areas where insurance companies are claiming or they're trying to say or they're suggesting that there are high claims costs, there are also, they're indicating, people who are—for whatever the reasons may be, but either they're on disability or they're low income or they're on social assistance. There seems to be a suggestion that those people cost them more, even though they're not necessarily a dangerous driver and anything inherently wrong with them. They just happen to be less well off, and that has been something that has come up to you. How does that come up?

**Mr. Ron Van Kleef:** It's being told to me through the industry. Brokers have approached me, saying that the reason is because of the high percentage of risk. Insurance companies don't want to risk.

**Mr. Jagmeet Singh:** So the risk isn't necessarily that they're dangerous as in risky drivers, but they're risky in the sense that they're just not well off and they're poor.

**Mr. Ron Van Kleef:** It's a risky investment.

**Mr. Jagmeet Singh:** Interesting.

**Mr. Ron Van Kleef:** Yes. That's what it's about. It's a risky investment, so why invest there?

**Mr. Jagmeet Singh:** How would you feel knowing, in terms of the policies, that insurance companies aren't

allowed to base someone's insurance rates based on their income level? That's actually something that's prohibited. You're not allowed to use someone's income level to set their insurance rates. To me, it sounds like they're doing the same thing, basically, in a roundabout way.

**Mr. Ron Van Kleef:** I would think so.

**The Acting Chair (Mr. Rick Bartolucci):** Less than two minutes, Jagmeet.

**Mr. Jagmeet Singh:** Okay. So far, this is impacting taxi drivers specifically, and you think that this might happen to limousine drivers as well, but you don't know yet.

**Mr. Ron Van Kleef:** I haven't heard anything yet. But that's about it; it could. It's transportation, right?

**Mr. Jagmeet Singh:** And I know something similar has happened to London as well. London taxi drivers are also, almost all of them, put into Facility as well. Are you familiar with that or aware of that?

**Mr. Ron Van Kleef:** No.

**Mr. Jagmeet Singh:** Okay. And so far in Brampton and in the GTA, has there been any impact, as far as you know, with the commercial vehicle insurance for those taxi drivers?

**Mr. Ron Van Kleef:** I don't know of any there.

**Mr. Jagmeet Singh:** Okay.

**Mr. Ron Van Kleef:** I know Brampton has its own situation going there.

**Mr. Jagmeet Singh:** Okay. I guess maybe a couple of seconds left. Anything else you'd like to add in your couple of seconds?

**Mr. Ron Van Kleef:** No. I'm good.

**Mr. Jagmeet Singh:** Okay. Thank you so much.

**The Acting Chair (Mr. Rick Bartolucci):** Thank you. We'll go over to the Liberals. Any questions?

**Mr. Bas Balkissoon:** Thank you, Mr. Chair. I have a couple, and then my colleague here has a couple. Thank you for being here. I just have a couple of questions because at the beginning of your presentation, I had trouble understanding, because there's noise outside here. You said you actually own these cabs, or are you operating the dispatching system?

**Mr. Ron Van Kleef:** Our cab company does the dispatching, so it's the brokerage. So when you call, we're the ones who facilitate the call, put it in dispatch mode and send it to the vehicle. All the taxis in Hamilton—the 425 taxis in Hamilton—are owned by a combination of us as shareholders, as well as many private people who own their own. So they may operate their own cab, one person; two cars, they may operate as well, or they own 10, or maybe 30. It's a combination of a lot of types of operators.

**Mr. Bas Balkissoon:** Okay. You indicated that a lot of the drivers, when they do have an accident, take care of the vehicle repairs themselves, and it's not given back to the insurance company. But is there a trail of a record, say with a police report? A reporting centre report? With these people claiming, is there anybody doing a correlation that they're making a claim of a real accident that took place?

**Mr. Ron Van Kleef:** By law, they're supposed to. I don't know, because we don't directly deal—the operator will deal with the insurance company directly. We're not like a middleman or a front-runner on the policy itself. I made a presentation to a couple of insurance companies and they're looking at it now: that we would govern the insurance under our umbrella as a company. But yeah, they should be putting a claim in, but there's no physical damage to their own vehicle because there's a third party involved, which could be a person or another passenger or a driver involved. You always report the claim.

**Mr. Bas Balkissoon:** But this insurance company that's carrying most of the policies—I'm hoping through the broker. Has the broker tried to work with the insurance company and get any kind of statistical data as to where these claims are, who the claims are? Was it a legit accident?

**Mr. Ron Van Kleef:** No.

**Mr. Bas Balkissoon:** Nothing of the sort?

**Mr. Ron Van Kleef:** We don't have any communication with the insurance company. We provide commercial general liability for our customer over and above the \$2 million auto, as per the insurance requirements of the bylaw. So we provide company insurance over and above; if there are any claims that go above that, it's a commercial—CGL, it's called.

**Mr. Bas Balkissoon:** Okay. My colleague here.

**Mr. Vic Dhillon:** Thank you very much for appearing today. I just want to clarify: Are all drivers being forced to go on Facility? Is it all of them?

**Mr. Ron Van Kleef:** All of them.

**Mr. Vic Dhillon:** Everyone has to pay \$15,000 to \$20,000?

**Mr. Ron Van Kleef:** All of them.

**Mr. Vic Dhillon:** Which is really unfair. Myself and some of my colleagues have started to ask questions. Insurance is regulated provincially. Taxis are licensed through the city, and the city has an obligation to taxicab owners/drivers, and the drivers have an obligation to the city. Taxis are a very important service, as you mentioned, for WSIB clients, for patients who have to go to the hospital, and many, many other segments of the population who rely on this service for their daily living.

Have you brought this to the attention of the city? I'm not deflecting the fault to the city, but they are a major stakeholder with respect to this whole issue. Is the city aware of what's happening? Because they're the ones that have the responsibility, just like transit, of ensuring that there is another option for people who don't have their own vehicles or are unable to use their own vehicles.

**Mr. Ron Van Kleef:** The city of Hamilton actually voted at a council meeting; it's public record. They sent a letter to the province regarding the concerns and are supportive of—

**Mr. Vic Dhillon:** Do you know when that was?

**Mr. Ron Van Kleef:** It might have been a couple of months ago? Maybe a month and a half, two months ago? It's on public record; the city of Hamilton voted unani-

mously to put a support letter of concern to the province and helping understand what's happening in Hamilton.

**Mr. Vic Dhillon:** Were you part of the delegation?

**Mr. Ron Van Kleef:** No. It was the actual city council. The city of Hamilton actually forwarded that letter to the province regarding the situation that we're dealing with.

**Mr. Vic Dhillon:** Yeah, okay. I just want to say, in the end, I do have a long history and relationship with the taxicab and limo industry. I'll tell you straight up: This is totally unacceptable, especially hearing that just because people who may not have the means, as some people living in another area—I feel this may be just crossing the discrimination line. We plan to look into this and see what solutions we can come up with. So thank you very much for appearing before the committee.

**Mr. Ron Van Kleef:** Thanks.

**The Acting Chair (Mr. Rick Bartolucci):** Ron, thanks very much for your presentation and for asking the questions and, in a very, very real way, providing us some information that some of us didn't know before. It will be very, very useful. Thank you so much.

**Mr. Ron Van Kleef:** Thank you very much.

MR. BICK DHALIWAL

MR. JASMINDER SINGH

**The Acting Chair (Mr. Rick Bartolucci):** Our next deputants will be Jasminder Singh and Bick Dhaliwal. Both are going to come to the mike, but I think Bick is going to be doing the speaking.

So, Jasminder and Bick, welcome, and we look forward to your presentations.

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**Mr. Bick Dhaliwal:** Thank you, and good afternoon to all the committee members and the Chair.

Again, I'm going to say hello and good afternoon to the committee members, the Chairperson and all the dignitaries. My name is Bick Dhaliwal. First of all, I really appreciate the opportunity to speak before you on behalf of Brampton and west-end residents.

As we all know, the auto industry has become a focal issue for all drivers, regardless of which industry they belong to, but mainly the taxi drivers are being penalized much more than other sector industries.

The Liberal government has recently promised to reduce auto insurance premiums by 15%. We believe this is a step in the right direction, but we also feel that it is too little and too late.

Of all the provinces, Ontario is by far the most costly place to buy car insurance. A recent study by the Fraser Institute found that Ontarians pay, on average, double the premium annually for auto insurance compared to Quebecers and other provinces.

Committee members and Chairperson, there are a few communities in Ontario, such as Brampton, London and Hamilton, that have been targeted with unfair insurance hikes compared to other municipalities. The insurance

companies have discriminately raised their premiums by postal codes. That, we feel, is equivalent to racial profiling. That is not only an unethical practice by any standards but also discriminatory and a very impractical approach.

As I became aware of such facts, I conducted some research that indicated that 80% of people have clean records and never make a claim, which leaves us with 20% of the population that file claims. Out of that 20% of the population, let's suppose that 10% of them are legitimate claimants, so that leaves us with 10% or under whom we can consider as fraudulent claimants, yet those 90% of people—decent, hard-working individuals who work day and night to support their families—are being penalized for the actions of a few. This shows that this system is not working properly. This is not a fair system and we should be holding those people accountable, not the 90% of the people who live their lives honestly and in a hard-working manner.

I believe the system has to be analyzed and it has to be changed. The insurance industry is a private venture that does not share its profits yet seek the shelter of government for their unprotected and loose ends. The insurance industry should not hold 90% of the people as scapegoats.

I feel that the Financial Services Commission of Ontario has to take measurable steps to address these issues with the insurance industry. I urge the commission not to act as a rubber stamp in favour of insurance companies, but for the public which has voted them into power.

Committee members and the Chairperson, many of the west-end residents I'm speaking on behalf of today are taxi drivers who make their ends meet very tightly due to high insurance premiums. As you may be aware, taxi drivers in London and Hamilton are paying up to \$20,000 insurance premiums. That is up from \$7,000 over a year. How would you expect those families to survive? What is the rationale for doubling the premium? There is no rationale. The insurance companies are on the loose and there's no one seemingly who would like to handle them.

Taxi drivers in Peel and the west end also feel they will be suffering the same consequences soon. Please, I urge all the political parties to show their concern, sympathy and empathy for the hard-working taxi drivers by lowering their insurance premiums.

Since 2006 to the present, the provincial government has dramatically trimmed accident benefits, and insurance premiums have continued to skyrocket. Insurance companies may rightly blame fraudulent claims as justification for higher premiums, but as a business entity, they should regard this as theft and not penalize the 90% of the decent customers.

There was some suggestion that from the fraud reduction, the insurance companies would be able to reduce premiums. I would like to end my speech by asking the panel: Do you really expect the insurance companies to voluntarily pass savings made from fraud reduction right along to the consumers? It's like the oil companies passing along savings when the market price for crude falls. I think not. That's not going to happen.

Therefore, let's all be rational and be logical. We should hold insurance companies accountable for their actions for raising unnecessary premiums. Thank you for your time.

**The Acting Chair (Mr. Rick Bartolucci):** Bick, thank you very much for your presentation. We're going to ask Jagmeet to start his 10 minutes. Thank you, Jasmin and Bick. Jagmeet, go ahead.

**Mr. Jagmeet Singh:** Thank you so much for being here today, and thank you for your presentation. I just want to start off with general questions about Brampton and then move on to the taxi industry. You indicated that it seems to you like there are certain areas that are being discriminated against, because the rates are higher. Why do you feel like it's discrimination?

**Mr. Bick Dhaliwal:** Well, clearly we have evidence. Postal codes in Brampton are being targeted. I have friends, taxi drivers, and when they call insurance brokers from all different companies, when that postal code was given to them, there was a much higher quoted premium. Then, if the same person—same status, age, record—called from another postal code, their premium was much lower. Even maybe half a block away, if they moved to Caledon, it's 30% lower than Brampton. Totally, I consider this to be unjust.

**Mr. Jagmeet Singh:** Unjust. Just as an everyday citizen and a taxi driver, the idea to you, doesn't it strike you—I mean, it strikes me as unfair, but just tell me your reaction: the idea that you, the same driver, live in Brampton and, like you said, if you move a couple a couple of blocks away into Caledon, because Brampton and Caledon are touching—the fact that if you move into Caledon, just a little bit away from where you live, a couple of kilometres away, all of a sudden you will see your rates go down by a lot. Does that make sense to you as a system? Does that seem fair to you?

**Mr. Bick Dhaliwal:** Like I said, it's totally unfair. What that is causing is people to move out of Brampton. This is sort of a pressure migration happening. What that will lead to is that there will be lesser services in the area where we live. It's the same problem that Hamilton and London are facing. The Brampton residents and ill people and people who cannot service themselves will have a problem.

**Mr. Jagmeet Singh:** Okay. So let's actually talk a little bit about the taxi industry specifically. We've seen and we've heard today from Hamilton—we know that the rates have gone up for taxi drivers in Hamilton, skyrocketed, and are extremely high. Basically, a lot of people are not going to be able to continue to be taxi drivers. Also, I've heard some stories that it's happening in London as well, that the rates have gone up. Have the rates gone up now in Brampton significantly, or is it a concern that they might start to increase?

**Mr. Bick Dhaliwal:** Well, it's a concern for all the taxi drivers, because they see that it can happen in London and Hamilton, and there's a fear among the community. It's a great fear that it may come to them. We're trying to take proactive measures, and that's why

we're here today: to let the government know that that is our concern.

**Mr. Jagmeet Singh:** Okay. Just talking about—I mean, the word gets tossed around a lot; people talk about fraud a lot. As a party, we believe that of course we want to get rid of any fraudulent activity. One of the things that you touched on today a little bit, and it has always struck me—I'm concerned about what the consumer thinks about this. In any other industry, if you are a shop owner and you're experiencing a lot of losses in your shop, if you're a Walmart or a big store like this, I would never imagine ever that a Walmart or a Home Depot or a local store would say, "We're having a lot of shoplifting. Let's go to the government and ask the government to fix this problem for us. Let's ask the government to get rid of the shoplifting because we're losing too much money."

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I never understood how the insurance companies had the gall to suggest that someone else has to fix the problem, that they couldn't hire loss prevention people themselves, that they couldn't have investigators do it themselves. They're a multi-billion-dollar industry; why don't they just deal with the issues themselves? I don't understand. As a taxi driver and just as a Brampton resident, what's your response to that?

**Mr. Bick Dhaliwal:** Well, that's so rightly said. Again, like I mentioned in my presentation, the insurance companies are a private venture, and they're profitable companies. They should be able to guard their loose ends and they should be able to curb any fraudulent activities. That is their job. They should not come to the shelter of the government if they have any leaks in their insurance system. I don't think they can hold the whole public or the government responsible for that. If a store owner, say, has a theft, their employees are stealing something, it is the store owner's obligation and his duty to protect his business. They don't go out to ask the public for help or increase the value of the merchandise.

**Mr. Jagmeet Singh:** Talking again about the claims: That's something that's very readily available in the Auditor General's report, talking about the number of people that make a claim and the percentage of fraud. A number that used to get tossed around was \$1 billion. Today, I see, Aviva has increased that to \$1.6 billion annually; that's what they're saying that fraud is. Basically, the overall industry is \$9 billion to \$10 billion. That's their cost. Either way you look at it, whether it's \$1 billion or \$1.6 billion, fraud is just one small portion of the costs. Just as an average citizen, have you seen—the industry is saving about \$2 billion annually because our benefits have gone down, so the amount of money that the insurance companies pay out to us has gone down by a lot. And that's gone down for over two years, our stats are saying, and IBC agrees with this; the insurance bureau says, "Yes, we agree. We're saving about \$2 billion annually. We're not paying out that much money." But people's rates haven't gone down.

As a consumer, do you feel skeptical, or are you doubtful that if we do anything else to reduce their costs,

that's actually going to result in savings for us? If we've already seen the insurance companies save so much money but they haven't brought our rates down—I mean, as a consumer, what's your opinion? Are you skeptical that if we do any further reductions for them, they'll actually pass on those savings to us?

**Mr. Bick Dhaliwal:** Well, definitely, I'm very skeptical about that, because we feel that regardless of how much reduction in fraud or how much money the insurance company is saving, it is not coming to the pockets of the consumers at all. It will go into their deep pockets and they will use that to lobby the government to make laws in their benefit, so as consumers we will still be losing. It's a vicious circle, but I think the consumers will be always penalized for that and I have no trust in it right now.

**Mr. Jagmeet Singh:** Okay. And just in closing—

**The Chair (Mr. Rick Bartolucci):** Two minutes.

**Mr. Jagmeet Singh:** Two minutes? And just in closing, I guess, if you could talk about maybe a couple of questions: What do you think needs to happen on the commercial side for taxi drivers? I guess this also applies to other commercial drivers, but right now, it looks like taxi drivers are the ones that might be impacted sooner. There might be an impact down the road for truck drivers and other commercial vehicles. But what needs to be done, in your opinion, to make sure that people can continue to be taxi drivers and limousine drivers so that the industry isn't hard hit? What can we do to make sure that—because right now, the prospects look pretty bad. What needs to be done?

**Mr. Bick Dhaliwal:** Well, I believe, as everyone on the committee knows, that driving a taxi is not a lazy job. It's a long-hour job, and the remuneration is not as much as you would expect. To make ends meet is really hard, with the high gas prices and insurance escalating every time. Basically, what I feel is, as the insurance prices keep going up, they'll be forcefully driven out of the industry. I don't know if the city has any backup plan or if the government has any backup plan in order to service the public, but I believe, with the escalating insurance premiums each year, the taxi industry is in danger.

**Mr. Jagmeet Singh:** Okay. Thank you.

**The Chair (Mr. Rick Bartolucci):** Thank you very much. We'll move over to the Liberals. Bas?

**Mr. Bas Balkissoon:** Thank you very much for being here.

**Mr. Bick Dhaliwal:** Thank you.

**Mr. Bas Balkissoon:** You opened by providing us a lot of statistics about 80% of the drivers out there never have a claim, 20% have a claim, and maybe 50% of those are problematic or claims that are fraudulent. But you do believe there are people out there who are making claims. Am I correct?

**Mr. Bick Dhaliwal:** Well, of course, yes. That's part of the nature of the industry.

**Mr. Bas Balkissoon:** Okay. Do you believe those claims are very significant in the years prior to 2010?

**Mr. Bick Dhaliwal:** Well, significant in which way? If it is cost-wise or—

**Mr. Bas Balkissoon:** Cost-wise; the value of the claims that were being made against the general insurance industry.

**Mr. Bick Dhaliwal:** Well, it could be considered significant, because I don't have the stats before me to look at for each claimant. But I still believe the number of drivers and cars—comparatively, if you match and if you try to compare it, I still believe it's not that significant, according to the premiums that they're charging.

**Mr. Bas Balkissoon:** Okay, but let me ask you a simple question, then. If there is a claim against the industry, where should that claim cost fall on? Should it be picked up by the industry, or should it be picked up by somebody else?

**Mr. Bick Dhaliwal:** Of course it should be picked up by the insurance company, because they are in the business to provide protection. That's what they get the premiums for.

**Mr. Bas Balkissoon:** Okay.

**Mr. Bick Dhaliwal:** That is part of their business, the nature of their business.

**Mr. Bas Balkissoon:** And do you realize that automobile insurance is mandatory in Ontario?

**Mr. Bick Dhaliwal:** I understand it's mandatory.

**Mr. Bas Balkissoon:** And it doesn't compare to my friend's example of Walmart?

**Mr. Bick Dhaliwal:** Well, you know, again, why it's mandatory is because the insurance companies made sure that it became mandatory, because that's how they generate revenues.

**Mr. Bas Balkissoon:** The Ontario government makes it mandatory—

**Mr. Bick Dhaliwal:** Yes.

**Mr. Bas Balkissoon:** —and this is why the government is involved with the industry. It's nowhere comparable to my friend's example that if Walmart has a lot of stolen goods, they would come to the government for help. We don't control Walmart.

**Mr. Bick Dhaliwal:** I understand that, but—

**Mr. Bas Balkissoon:** We don't make Walmart mandatory in any way or form.

**Mr. Mike Colle:** Oh, God forbid.

**Mr. Bas Balkissoon:** And God forbid, my friend says.

**Mr. Bick Dhaliwal:** If I could answer your question: Basically, like I said in the beginning, who is controlling who? According to the report I have in front of me, I have facts that support basically the insurance companies are controlling FSCO, the government body, by lobbying. In your suggestion, insurance is not a private entity like Walmart, but yet they have the power to control government legislation that would support in their favour.

**Mr. Bas Balkissoon:** You're just speculating that, because there's no proof to it. Do you have proof?

**Mr. Bick Dhaliwal:** Well, I have the reports that I printed—

**Mr. Bas Balkissoon:** No, if you have proof, I'd like to have it. But if you're looking at something that is speculative, I'm not interested.

I'll carry on here. So you do believe that the claims that are being made against the industry—those expenses should remain within the industry. If the industry believes, and those that are involved in it, like FSCO, have enough evidence that it's fraud, do you have an idea how the government should work with the industry to deal with the fraud?

**Mr. Bick Dhaliwal:** Well, if it's fraud, there should be an act. There's a government agency that we use in every other sector that—if there's a fraud, there should be repercussions, legal repercussions. Their licence should be taken away. There should be legal implications, not an increase in the rates of the 90% of the people who have nothing to do with it. If somebody commits a crime, they should be held responsible, not the rest of the public.

**Mr. Bas Balkissoon:** But if we don't have enough evidence to fine them, what else would you suggest the government do?

**Mr. Bick Dhaliwal:** If the insurance company doesn't have enough evidence to do it, then who's going to provide them the evidence? It's their job to hire people, private investigators, or conduct their own—design a plan so they can do it. I mean, that's what they've got premiums for.

**Mr. Bas Balkissoon:** Okay. If you disagree with the current model of insurance companies setting their rates, which is your concern that Brampton is high, and London and Hamilton—and I can tell you that my own neighbourhood of Scarborough is also high—should the people in Thunder Bay or North Bay be paying for the fact that the folks in your area and in my area and in Hamilton and in London have more claims than the people in North Bay?

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**Mr. Bick Dhaliwal:** No. They should be on an individual basis. Who—

**Mr. Bas Balkissoon:** Sorry, it should be what?

**Mr. Bick Dhaliwal:** The insurance premiums should be based on the individual's record, not on the postal code, not on the community, not—

**Mr. Bas Balkissoon:** When you say "individual location," I don't understand.

**Mr. Bick Dhaliwal:** Okay. When a particular person in Brampton or North Bay makes a claim, he can affect his or her insurance premium. Not everybody who lives in that neighbourhood—

**Mr. Bas Balkissoon:** No, but hold on. If you hit me and I have injury and I make a claim, my policy should not go up.

**Mr. Bick Dhaliwal:** No. I didn't say your policy should go up.

**Mr. Bas Balkissoon:** Okay. So it's the person who had the accident?

**Mr. Bick Dhaliwal:** That's right.

**Mr. Bas Balkissoon:** Just that one person?

**Mr. Bick Dhaliwal:** Just that one person.

**Mr. Bas Balkissoon:** Do you realize that if the insurance industry was to operate that way, then that one person would never get insurance again?

**Mr. Bick Dhaliwal:** That is something that insurance companies and the government legislation have to decide, how they're going to handle that. I'm just here as a citizen who has questions. The system is not working properly, and it has to be designed—

**Mr. Bas Balkissoon:** I understand that, but I'm trying to show you the fault in your own process. Insurance, as it's designed, is that we all pool our resources to look after each other.

**Mr. Bick Dhaliwal:** Yes.

**Mr. Bas Balkissoon:** Okay. That's the whole premise of insurance.

**Mr. Bick Dhaliwal:** Right.

**Mr. Bas Balkissoon:** It's a pooling of resources. So if you have an accident against me and I make a claim, it's not intended that just your policy go up; some of that has to be dealt with as part of the pool.

**Mr. Bick Dhaliwal:** Okay.

**Mr. Bas Balkissoon:** Okay. How you design the pool is an issue.

The second issue is, if everything was perfect, without the fraud, we wouldn't have a problem. So I'm asking you: How do you deal with the fraud? Did you come here with an idea of how the government should deal with the fraud?

**The Acting Chair (Mr. Rick Bartolucci):** We have two minutes left, Bas.

**Mr. Bick Dhaliwal:** I think that is the government's job to investigate and root out the problem—like you said, if the root cause is the fraud. Like any other criminal acts, the public doesn't say, "Okay. This guy commits a crime. This is how we should punish him." There's a system that is set up, and that is government's job, not mine.

**Mr. Bas Balkissoon:** Okay. Do you accept the two steps that the government took in 2010—and there's probably a whole lot more to do, and that is what is being done right now. In 2010, we allowed individual policy-holders to make a choice of what benefits they have. My colleague across is telling you that since 2010, the insurance industry has had a huge savings and he wants those savings passed on, which none of us argue about. What we're arguing about is how we continue to deal with the fraud. The moves we made in 2010 are the first step. We're now looking at the second set of steps, which has been outlined, that we would take in the next little while. Would you agree that since 2010 the government has been going in the right direction?

**Mr. Bick Dhaliwal:** Yes, the government has gone in the right direction—

**Mr. Bas Balkissoon:** Thank you.

**Mr. Bick Dhaliwal:** —but also, there's—

*Interjections.*

**Mr. Bick Dhaliwal:** Yes. The government is doing the right steps, but at the same time, they are not controlling the escalation of premiums by the insurance companies. The government is doing the legislation things, but insurance is still rising on the people. You just saw a

presentation on Hamilton. This happened just in this year.

**Mr. Bas Balkissoon:** Thank you.

**The Acting Chair (Mr. Rick Bartolucci):** Thanks, Bas. We'll move over to the PCs and Todd.

**Mr. Todd Smith:** Thanks, Chair, and thanks, gentlemen, for coming in and answering our questions here this afternoon.

You're both taxi drivers?

**Mr. Bick Dhaliwal:** No, he's a taxi driver. I represent the taxi association.

**Mr. Todd Smith:** Okay. How much liability coverage do you need on your taxicab?

**Mr. Bick Dhaliwal:** Minimum \$1 million to \$2 million.

**Mr. Todd Smith:** One million to \$2 million?

**Mr. Bick Dhaliwal:** Yes.

**Mr. Todd Smith:** Has this increased over the years, over the last couple of years?

**Mr. Bick Dhaliwal:** The liability?

**Mr. Todd Smith:** Yes.

**Mr. Bick Dhaliwal:** No.

**Mr. Todd Smith:** Why has that not increased?

**Mr. Bick Dhaliwal:** I'm sorry?

**Mr. Todd Smith:** Why has that not increased?

**Mr. Bick Dhaliwal:** That is something you have to ask the insurance company.

**Mr. Todd Smith:** But obviously, there have been more claims in the Brampton area, right? There has been an increase in the number of claims in that area.

**Mr. Bick Dhaliwal:** That's what we've heard, but I haven't seen any stats or any numbers—how many, in what area and how much they were paid out. That information is not available.

**Mr. Todd Smith:** I know that in the meetings that we've had, the payouts have been much more in that area.

**Mr. Bick Dhaliwal:** Yes, I heard that, but I don't have the figures.

**Mr. Todd Smith:** So payouts are very much more in that area.

I guess the other question we need to get to is—you know, we've been talking a lot about taxi drivers and taxicabs here so far today—taxis are considered commercial vehicles?

**Mr. Bick Dhaliwal:** Yes.

**Mr. Todd Smith:** So this insurance deduction that we've seen proposed here by the two parties is aimed at personal vehicles, right? It's not aimed at commercial vehicles?

**Mr. Bick Dhaliwal:** Exactly.

**Mr. Todd Smith:** So what we're discussing in the Legislature at this time isn't going to affect taxi drivers at all?

**Mr. Bick Dhaliwal:** It's not going to affect it, but like I said, going to the Facility insurance like they did in Milton and London—that is the fear that has been around the community, and they feel, if it comes to that, it's

going to have a drastic effect on the community as a whole.

**Mr. Todd Smith:** Right. I'm really curious, and I don't know if you can answer this or not, why Brampton, obviously, and that area has been the hot spot as far as the conversation goes on increased insurance rates.

**Mr. Bick Dhaliwal:** Right.

**Mr. Todd Smith:** Why have we not experienced the same kind of increases, or the same problems, I guess, for taxi drivers in Brampton that we've seen in Hamilton and London? Is there any reason why they're not able to get insurance in Hamilton and London but you're still able to get insurance in Brampton? I'm curious as to why, if Brampton is the epicentre of this whole problem and where the insurance rates are the highest, have we seen the situation unfold in the way it has to our southwest?

**Mr. Bick Dhaliwal:** I think we are talking about two different things right now. As for the private insurance, Brampton has it much higher than any other municipalities. What happened in London and Hamilton, that was a taxi issue, and now we're talking two different things.

So when we talk about the private insurance, Brampton residents are charged much more premium because of just being in Brampton, and if they give the same information over the phone to the broker, using a different postal code, their insurance even comes down, 30% to 50% down, which is totally unfair—just because of the postal code.

The second one you mentioned was the taxi industry. The taxi industry in the Brampton area are in fear that what happened in London and in Burlington could happen to them. So those are the two separate issues there.

**Mr. Todd Smith:** And I think what we may find out is that there would be more accidents involving taxicabs or more claims involving taxicabs in those areas than there are in Brampton. Would that be a logical conclusion?

**Mr. Bick Dhaliwal:** Well, again, that's something that I cannot predict, how people drive in one city versus how they drive in the other or as a whole. Those stats are not there, and this is all just speculation, and I don't really want to make any comments on the speculation.

**Mr. Todd Smith:** Fair enough. You mentioned the Fraser report when you started off, right?

**Mr. Bick Dhaliwal:** Yes.

**Mr. Todd Smith:** Do you happen to recall what the two biggest cost drivers were in the Fraser report when it comes to auto insurance?

**Mr. Bick Dhaliwal:** I don't remember if I had the opportunity to print it out, but if you could—

**Mr. Todd Smith:** I believe fraud and bureaucracy were the two biggest drivers of—

**Mr. Bick Dhaliwal:** Exactly, yes, they could very well be, and I mentioned that in the beginning of my speech also.

But there has to be a common denominator. We cannot just use one—like a fearmongering kind of thing, just use the word "fraud" and increase everybody's insurance

premiums. It has to be justifiable, it has to be open, and it has to be debated and analyzed and changed. So I believe there has to be more openness in the concept from the insurance company, and all we hear is just the word “fraudulent”; “fraudulent,” but there aren’t any proper figures, how much they’re generating and how much they’re paying out. That will really open a lot of unanswered questions.

**Mr. Todd Smith:** I actually hail from New Brunswick, and they had a similar problem in New Brunswick a number of years ago. They had large increases when the territories changed in New Brunswick a number of years ago. Their solution in New Brunswick was to actually allow more territories, and that seemed to level out the increases across the territories. Do you think that’s a viable solution for the province to consider or for the GTA to consider, for that matter?

1510

**Mr. Bick Dhaliwal:** I agree with that as long as the insurance—the main purpose of our being here today is to have consumers get some relief from the pressure that they’re feeling right now. So creating a territory or any other alternative that would give them relief would be viable.

**Mr. Todd Smith:** Insurance is a risk-based type of enterprise, right? The insurance companies are obviously feeling that, because most of the claims and the expensive claims are coming from your part of the province, that’s why the insurance is so high there. I don’t think we can dispute that fact. I’ve actually seen a map of the province where it shows where most of the dollars are paid out, and it happens to be in that northern part of the GTA.

So I can tell you, being a representative from eastern Ontario, where it’s probably the safest place to drive in the province, that the insurance rates are much lower and they would like to keep them that way, obviously, in the eastern part of the province. North of Toronto, it’s more expensive. It has been told to me—and you mentioned the Fraser report off the top—that the biggest reasons that exist are the fraud that exists in that area.

We’ve seen in other jurisdictions—and I mentioned what they did in New Brunswick but also in the state of New Jersey, where they came down hard on fraud in that state, and it has made a huge difference in New Jersey.

**Mr. Bick Dhaliwal:** Yeah. Well, I agree with what you’re saying and with the Fraser report, but I also feel that the word “fraud” has been overused in this industry just so they can charge more premiums. I think there has to be in-depth research that has to be conducted so that the facts can be heard. We should not speculate on the words when the insurance companies say there’s fraud, but as long as we as consumers know what those figures are so we can be at least justified. Even if the insurance premiums do go up, we should know why they went up.

**Mr. Todd Smith:** Thanks.

**The Acting Chair (Mr. Rick Bartolucci):** Thank you very much, Mr. Dhaliwal. Mr. Singh, thanks very much for your presentation and for answering the questions in such a frank and open way. Thank you so much.

**Mr. Bick Dhaliwal:** Thank you so much.

CANADIAN ACADEMY  
OF PSYCHOLOGISTS  
IN DISABILITY ASSESSMENT

**The Acting Chair (Mr. Rick Bartolucci):** The next presentation is from the Canadian Academy of Psychologists in Disability Assessment. Brian Levitt is the president.

Brian, welcome.

**Dr. Brian Levitt:** Thank you. I’m just going to take a moment to set up the PowerPoint.

**The Acting Chair (Mr. Rick Bartolucci):** No problem.

Okay. Are we ready, Brian?

Welcome, Brian.

**Dr. Brian Levitt:** Thank you. Thank you, first of all, for having the time to hear from us today. I’ll be starting with just basically explaining who we are, whom we represent and why we’re speaking with you.

I’m Dr. Brian Levitt. I’m the president of the Canadian Academy of Psychologists in Disability Assessment. I’m a clinical and rehabilitation psychologist, and I’m here as the president of the Canadian Academy of Psychologists in Disability Assessment.

To my left is Dr. Ron Kaplan. He’s a clinical and rehabilitation neuropsychologist and is here as a consultant. He’s a founding member of CAPDA, which is the organization that I’m representing today.

CAPDA members are senior psychologists. We specialize in disability assessment. In particular, we have many members with unique expertise in carrying out catastrophic impairment assessment, and that’s what I’ll be focusing on today.

Many of us were on the FSCO roster of CAT assessors; two owned and operated one of the seven CAT DACs. We have members who have served on the minister’s committee on the DAC system; the recent expert panel; various committees to review DAC guidelines; and various HCAI committees. We have given many courses and lectures on catastrophic impairment to doctors and lawyers.

I have published the only scientific papers on catastrophic impairment in Ontario, and of course I’m happy to provide you with copies. I’m also happy to try to explain my understanding of this confusing and complex area.

There’s a recent IBC advertisement just outside Queen’s Park; I noticed today coming up it’s still out there, actually, in front of the Frost building. One of the things that it says is: “Define catastrophic injury based on medical science—not on lawyers’ arguments.” We agree.

This just came out a couple of days ago, from the Canadian Underwriter: IBC’s president and CEO “noted that the government’s proposal to have further consultations on the catastrophic impairment definition [is] unnecessary, since it’s already been studied extensively.” We disagree.

There is a lot of misinformation; I cannot address it all in 10 minutes, but I welcome your questions.

The expert panel's approach to recommendations for mental and behavioural impairments was flawed and incomplete. The expert panel did not have the resources to examine the issue, for example, of combining mental and behavioural impairments with physical impairments, and they said so; this is in their report.

The catastrophic impairment definitions have not been studied extensively enough. The government is looking for something reliable; we understand that, and we also would want something reliable as scientists. The expert panel made some proposals that are more reliable, but they did this only by using criteria that result in more false negatives—in other words, raising the bar so high that a lot of people who should be considered catastrophic are left out in order to make it easier to determine catastrophic. As I say, in other words, they sacrificed the needs of a small group of seriously impaired patients to achieve greater reliability. As scientists, we think that reliability begins with method, not by changing definitions. You have to start with method; if you just change definitions, you're still leaving method out. So you're still going to have an unsound foundation.

This is an essential point and a significant flaw in the approach that was taken by the expert panel. You don't have to make a definition more restrictive and exclude a small group of people in great need in order to achieve reliability. A standard method is what's needed to achieve reliability. This is how we work as scientists; if we all have a standard method that we all follow, then our results are more reliable. It's the foundation of what we do.

This was the case under the former DAC system; and with the dissolution of the DACs, assessors have no common guidelines for their method. It's the Wild, Wild West. Methodological guidelines should be written into the SABS CAT definitions to reinforce them for all assessors to follow.

Luckily, the AMA guides' fourth edition is already written into the SABS as a part of the definitions. The guides provide a rich method; it is very detailed and robust. We are asking that it be required to be used by being more explicit about this in the SABS definitions—that assessors actually use the guidelines that are written in the AMA guides.

Regarding SABS definition (e), the combination of impairments resulting in 55% whole-person impairment, the proposal to disallow inclusion of impairments due to mental and behavioural disorders is discriminatory; I don't know any other way to put that—it just is. It is also contrary to research and science regarding the compounded impact of coexisting physical and mental and behavioural disorders.

The fourth edition of the AMA guides, chapter 4, table 3, should be applied to quantify impairments due to mental and behavioural disorders, to be combined with other impairments for a whole-person impairment rating. The combining method used in the guides discounts

impairments that are combined so that the total impairment rating can never be greater than death. I'm not sure if this is a point that's well understood in the public, but the idea in the guides is that you have an impairment percentage for each kind of impairment; if you have multiple impairments, if you don't have a way of discounting them, you could exceed 100%, which is more than death. Whenever you combine multiple impairments, there's a discounting method, so each impairment actually has a lower impairment rating than it would have on its own. This is, as I say, a convenient mathematical fiction, but it does not represent the actual increased impairment burden when a patient has more than one impairment of any kind. Any consideration of combining should not allow further discounting of mental and behavioural impairments, because the combining method already discounts multiple impairments. That's the nature of how the guides approach this.

1520

Regarding SABS definition (f), which is impairments due to mental and behavioural disorders, the indicia as proposed by the expert panel are essentially useless. They are also arbitrary, and they are harmful. While the indicia proposed by the expert panel are more objective, they're not in line with reality. This is a point that I really hope to underscore. These days, a huge number of people are managed at home or are hidden because of cultural factors, family factors and the ongoing stigma of mental illness. In other words, having indicia about hospitalization means you're going to be missing that portion of the population that is not being hospitalized for all these reasons.

The expert panel also proposes a GAF of 40 or less. The GAF is a part of how we diagnose in psychology and psychiatry. This is the equivalent of precluding all functioning. It's a very strict, high bar. By contrast, the loss of a limb, which is considered to be a catastrophic impairment, can be expected to significantly impede useful functioning but not preclude all functioning.

**The Acting Chair (Mr. Rick Bartolucci):** Two minutes, Doctor.

**Dr. Brian Levitt:** Further, those with persistent mental disorders may never recover and may need ongoing care and treatment supports to prevent further deterioration. By contrast, amputees with proper treatment and new prostheses may return to almost normal functioning.

Also, there's no clinical or research basis to shift from the AMA guides to a GAF model. The GAF has long been a fixture of the DSM, but DSM-5 will no longer use it. Also, in Canada and the US, the way we'll be diagnosing in health care, we'll be relying on the ICD, the International Classification of Diseases, and moving away from DSM and GAF.

Chapter 14 of the guides provides a robust method for an assessment with explicit directions to arrive at valid and reliable determinations of impairments resulting from mental and behavioural disorders. Retaining and reinforcing the method used in chapter 14 by writing it

into the SABS definitions addresses concerns regarding reliability.

Finally, regarding SABS (d), brain impairment, the proposed removal of the Glasgow coma scale without any replacement for early identification is very problematic. Scientific evidence documents the higher needs of patients with brain injuries in the early post-injury phase, when it may not be possible to predict ultimate outcome using measures of current function. The GCS was put into the SABS because it is available in almost every medical file. It allows an insurer to make a quick determination if a patient has a cat brain injury. It's cost-effective.

Cat myths: Please ask me about these. I'm happy to talk about any of them.

**The Acting Chair (Mr. Rick Bartolucci):** That's where we're going to have to cut you off. Your 10 minutes are up. Maybe we can capture the rest of your presentation while you're answering questions. All right? We'll turn it over to the Liberals, who will go first.

**Mr. Bas Balkissoon:** I just have something very simple, because you've just baffled me with a lot of medical terms. Do you see in the system that the government develops that, whatever we put in policy, procedure or law, there will be a certain percentage of the population who are victims of an accident that must proceed through a court and let a judge decide on all these medical factors?

**Dr. Brian Levitt:** Absolutely.

**Mr. Bas Balkissoon:** Okay, so you agree with that process. In defining these major injuries, our goal really is not to capture everybody in it. Would you agree with me?

**Dr. Brian Levitt:** I understand, yes.

**Mr. Bas Balkissoon:** Okay, thank you. Mr. Chair, I'm finished.

**The Acting Chair (Mr. Rick Bartolucci):** Great. Any other questions? All right, we'll go over to the Progressive Conservatives, Laurie.

**Ms. Laurie Scott:** Thank you very much for coming today and presenting to us. It was pretty high-level for those not in the medical profession. I just wanted to know: Do you want to finish off some of your slides? I'll let you do that, and then I have a couple of questions.

**Dr. Brian Levitt:** I'd appreciate that if I could—

**Ms. Laurie Scott:** If you don't mind putting it in kind of more language that we might understand. I have a bit of a nursing background, and you've certainly worried me in what you presented.

**Dr. Brian Levitt:** Excellent, thank you. I'll be very brief with it; it's just a list of common misunderstandings about catastrophic. The next eight or so slides are just the common myths about catastrophics.

**Ms. Laurie Scott:** That's fine, okay.

**Dr. Brian Levitt:** One myth is that anyone with chronic pain can be declared catastrophic now, and the floodgates have opened; that's a myth. Combining physical with mental behavioural impairments opens the floodgates; that's also a myth.

Mental disorders are subjective and easily faked; that's a myth. The chapter on mental and behavioural disorders is less reliable than the other chapters in the guides; that is also a myth. All mental disorders are temporary; not true. The GAF is a good replacement for the methodology and classification system in chapter 14 of the guides; not true, that is a myth. Mental disorders produce less disability and less burden on the person in care systems than physical disorders; also not true. Mental disorders don't have much impact on physical disorders; that is a myth. Mental disorders should be discounted if they're combined with physical impairments; that is untrue.

The SABS catastrophic impairment definitions are numerical equivalents; that's a myth. And psychologists do not assess, diagnose and treat patients with severe mental illnesses. Of course we do; that is a myth. Psychologists are not qualified to do catastrophic impairment assessments and sign OCF-19s; that's also a myth. Of course, we are qualified to do so.

**Ms. Laurie Scott:** So I guess I'm quite worried about the fact that we have this new definition of "catastrophic." I think that's what occurring, but you—

**Dr. Brian Levitt:** It's being proposed.

**Ms. Laurie Scott:** Yes, it's being proposed. You certainly don't agree with it, from my—

**Dr. Brian Levitt:** I have significant disagreements with the expert panel proposals, yes.

**Ms. Laurie Scott:** Okay. The expert panel has obviously said, "We didn't have funds to do some of the comparisons or assessments."

**Dr. Brian Levitt:** Correct.

**Ms. Laurie Scott:** So why would they remove the Glasgow scale, and why would they move to a GAF model? The AMA, I'm taking it, is what you would prefer was used. You can elaborate on any of those points that I've just said.

**Dr. Brian Levitt:** I see what you're saying. The GCS actually refers to a different definition in the SABS about brain injury. The moving towards a GAF has to do, in general, with mental and behavioural disorders. There were proposals by the expert panel to move away from the guides that we have long used and have a pretty robust method for doing assessments for coming up with impairment determinations and trying to come up with something. As I was saying, the indicia—

**Ms. Laurie Scott:** So indicators, is that what—

**Dr. Brian Levitt:** Indicators, yes: So someone should have had psychiatric hospitalizations, someone should have certain medications, that sort of thing. It simply doesn't happen all that much, because of cultural and family factors etc. So you're leaving out a very important sector of a small group of people who are severely impaired by setting up indicators that don't mirror reality.

Then setting up a GAF—the issue with a GAF—there are a number of issues. One of them, though, is that the GAF is simply a measure; it's not a method. The AMA guides provide a very detailed, rich method in chapter 14 for doing an assessment of mental and behavioural

disorders and then for being very transparent about how you make your impairment ratings, how you lay it all out. The GAF has nothing to do with that; it's just one simple measure. So if you move from the AMA guides to the GAF, you're actually losing reliability; you have no method.

**Ms. Laurie Scott:** We're in this room, and some have medical backgrounds and some don't. We're in this political position, and there has been a recommendation for the new definition of "catastrophic." Yet you've presented a very different point of view. What is one in our position to try and do? Have you presented an alternative definition for "catastrophic"?

**Dr. Brian Levitt:** Thank you for that question; I do appreciate that. I think what I'm arguing for is that the definitions, as they are, I believe, can be improved in terms of reliability by including in the definitions a reliable method to follow. The guideline should be in there about how you follow these definitions, because if you simply change the definitions, you still don't have the foundation of a consistent method that everyone uses. You can keep changing the definitions and changing them, but the problem is, these were changed—I think the philosophy was, and I'll put it in very kind of—

**Ms. Laurie Scott:** Layman's terms.

**Dr. Brian Levitt:** —gross terms, very blunt terms. It's very easy to go to a cemetery and for everyone to say, "Yup, they're all dead." That's reliable. You walk up, and you see all the graves. Everyone's dead. So you can set your definition so strictly that of course it's reliable, but you're going to be leaving out an important small group of people who should be deemed catastrophic in order to get the treatment needs. Instead of changing the definition and making the bar so high so as to make it reliable—as scientists, the place we always start is our method for how we go about assessing people. If we all have a method that we all have to follow by law, that's the foundation of it. Changing your definitions without having a foundation is not going to help. That's my basic argument.

1530

**Ms. Laurie Scott:** Okay. That's fair enough. I think you could argue that you can actually speed up this process if there was proper methodology in place for people with catastrophic injuries.

**Dr. Brian Levitt:** I think part of what would happen, if there was proper methodology that everyone followed, there should be less disputes because we're using a common method.

**Ms. Laurie Scott:** Right.

**Dr. Brian Levitt:** So the dispute resolution system would be helped by that.

**Ms. Laurie Scott:** Okay.

**Dr. Brian Levitt:** That's exactly what I'm saying.

**Ms. Laurie Scott:** Okay. Very good. Thank you very much for coming today.

**The Acting Chair (Mr. Rick Bartolucci):** Thanks very much. We'll now move to the NDP. Jagmeet.

**Mr. Jagmeet Singh:** Thank you so much. I want to take some brief time just to go through and kind of summarize some of the ideas here. One of the things I want to be clear on: There was an expert panel that tried to come up with a new definition, and some of the problems with that new definition—one is, the expert panel itself was flawed. If you could quickly and briefly provide one clear example why that expert panel was flawed.

**Dr. Brian Levitt:** The most basic example of how it was flawed is that the expert panel followed what we call a Delphi method. However, they didn't follow the Delphi method the way the Delphi method should be followed. The idea with the Delphi method is that you're supposed to have a big enough number of people so when you have disagreements, if a large enough amount of people agree, you can say you have consensus. The expert panel was eight people. They're covering a wide range of issues that you can't represent with just eight people. Six out of eight is considered consensus. So if two people disagree, the expert panel's findings are still issued as a consensus.

The problem is, for example—and I'm talking about just mental and behavioural impairments today—there was only one practising psychologist on the panel. So six people could say, "Oh, yes, this is a great idea for mental and behavioural impairments." The psychologist could disagree and the expert panel's findings are a consensus that that definition is all right. It's a very significant flaw, and it kind of gets brushed over.

**Mr. Jagmeet Singh:** And just to put that into more context, essentially anything that dealt with mental or behavioural issues, the one key expert in that area—there was only one individual, and if you needed six people for consensus, that one person's viewpoint could be marginalized all the time.

**Dr. Brian Levitt:** That's exactly what I'm saying.

**Mr. Jagmeet Singh:** Okay. And there's no surprise, then, in the definition that there is greater emphasis placed on the physical injuries leading to a definition of impairment or catastrophic impairment, but there's much less emphasis placed on mental or behavioural illnesses. Is that correct?

**Dr. Brian Levitt:** I think even more so than that, what I would say is that because of that imbalance in the panel, you actually see discrimination with respect to mental and behavioural impairments.

**Mr. Jagmeet Singh:** So, to put that bluntly, people with mental or behavioural issues or impairments were essentially not considered to be serious impairments.

**Dr. Brian Levitt:** Unfortunately, because I think the composition of the panel did not represent those experts who would understand those issues well enough.

**Mr. Jagmeet Singh:** Okay. I think you touched on this point very well, but just to go back to it again: If the goal is to create a more reliable way of measuring who is catastrophically impaired or not, to create that reliability, you can create that by having a method of assessing someone; and making the method more reliable would create a more reliable result as opposed to making the definition more strict or less strict. That's not the way to get a more reliable result.

**Dr. Brian Levitt:** Exactly. That's the scientific method. If we all have an agreed-upon method to follow, reliability means that we both do the same thing, so we're likely to come to similar conclusions. So you have to have a common method.

**Mr. Jagmeet Singh:** And just talking on the combining of factors, what went on in this, the way the new definition is proposed, is the combining factors and the discount. So, essentially, if you have two serious impairments and you're combining a mental issue and a physical issue, first of all, you are not allowed—the new definition is not encouraging the combining of those two factors. Is that correct?

**Dr. Brian Levitt:** What I understand is, the expert panel didn't have time to consider combining.

**Mr. Jagmeet Singh:** Okay.

**Dr. Brian Levitt:** So that there's nothing to even look at from the expert panel.

**Mr. Jagmeet Singh:** Because the reason why this is being raised is that, in fact, if you have a mental impairment with a physical impairment, both of those issues would be exacerbated, both your mental impairment as well as your physical impairment, if you have both of them.

**Dr. Brian Levitt:** That's right. I can tell you, as a practising clinician, what we see is that when people have both physical and mental/behavioural disorders, it's harder to treat both.

**Mr. Jagmeet Singh:** Okay. And just on this issue of the GAF scoring, if you lose a limb, technically, in terms of your functioning in society, you are still able to function at a pretty decent level in some circumstances. Losing an arm or losing a hand: you would still be able to function at a quite high level. Whereas if you had a significant mental impairment, you may not be able to function whatsoever in society, but that would result in a lower score than someone who lost a limb.

**Dr. Brian Levitt:** That's what I'm concerned about in terms of the expert panel's recommendations; exactly.

**Mr. Jagmeet Singh:** So that someone who actually can return to somewhat of a normal life would be perhaps deemed catastrophic, and maybe rightly so, but someone who couldn't get back to a normal life whatsoever but didn't suffer a significant physical loss like a loss of limb—that person, though they were functioning at quite a low level, would not be considered to be catastrophically impaired.

**Dr. Brian Levitt:** That's exactly right.

**Mr. Jagmeet Singh:** Okay.

**Ms. Teresa J. Armstrong:** I have a question.

**Mr. Jagmeet Singh:** Sure.

**Ms. Teresa J. Armstrong:** You had said that the scientific findings of how they're going to determine catastrophic have—determined by the panel. You mentioned that it was because of time, that you didn't have enough time to go beyond that procedure.

**Dr. Brian Levitt:** My understanding, from what they issued, is that they didn't have the resources, which I figure would be—

**Ms. Teresa J. Armstrong:** Funding?

**Dr. Brian Levitt:** —time and funding, in order to go into that.

**Ms. Teresa J. Armstrong:** Okay. So they haven't done a thorough investigation or a comprehensive look at the definition of catastrophic. Wouldn't that be even worse, to change a definition and having to fix that mistake later? How do you feel about the fact that if they do proceed—has the government done its due diligence in actually getting it right?

**Dr. Brian Levitt:** In my opinion, the government wouldn't be doing its due diligence. You're restating basically what I was saying in terms of, if you change the definition without having looked at it thoroughly and without understanding that method has to be a foundation, you're going to end up with a mess on your hands.

**Mr. Jagmeet Singh:** And how many people were we impacting in the first place? How many people were we impacting in terms of the number of people who are actually deemed catastrophically injured and what's the cost associated with that to provide any basis for even reducing that number or the argument that—I'm suggesting it's already such a small number of people that there's no basis to make that number even smaller.

**Dr. Brian Levitt:** From my understanding, it's probably about 1% of accident victims. So it's already a very small group of people, but then, these definitions—as a psychologist, I see them unfairly discriminating against those with mental and behavioural impairments, a very small group.

**Mr. Jagmeet Singh:** And one of the points you had mentioned, just to clarify, when you indicated that for the mental side that the requirements are so high—one of the things you talked about was that for someone to be deemed mentally impaired enough to meet the definition of catastrophically impaired, some of the requirements were that they would be institutionalized and be on specific medications.

Two issues: One is, someone could be significantly mentally impaired but not actually be institutionalized. Folks who don't have access to an institution, to get into an institution in the first place, would be mentally impaired but not able to get into an institution, would not be covered.

You also talked about cultural barriers, that if you're part of a particular community that—well, in many communities, mental illness is stigmatized and they wouldn't want their loved one or their family member to actually go to an institution, though they might qualify as someone who should be institutionalized. Because they're not institutionalized because of cultural barriers, they wouldn't be recognized as someone who is catastrophically impaired. Am I understanding what you're saying?

**Dr. Brian Levitt:** That's exactly right. I can't say it any better than that.

**The Acting Chair (Mr. Rick Bartolucci):** Two minutes, Jagmeet.

**Mr. Jagmeet Singh:** Okay. Unless my colleague has more questions, is there anything else that you feel has

not been covered that you would like a couple of minutes to cover?

**Dr. Ron Kaplan:** I'm Dr. Kaplan. Let me just address the question about the numbers and the costs. We know that HCAI is not collecting data on the number of individuals with catastrophic impairment. So we're always relying on somewhat informal data about the number of people applying for catastrophic impairment and being determined catastrophic impairment. Of course, we don't know about the value of the benefits they receive or the settlements they receive, so we're always in the dark.

We should remember that catastrophic impairment—when an insurer accepts that you have a catastrophic impairment, no money changes hands. The insurer is simply saying that your entitlement to apply for further benefits has changed. So if you can demonstrate that you need attendant care, you now have access to attendant care at the quantum that's appropriate for your needs. If you've run out of the basic policy level, you can now apply for further treatment dollars, but it doesn't mean that you're automatically going to spend the limit of \$1 million plus \$1 million over your lifetime at all. The system has that second control that nothing is provided unless it's shown to be reasonable and necessary, and the insurers are able to get their own insurer examinations to determine if an application for either attendant care or treatment is necessary. So catastrophic impairment determination allows a person to apply for further benefits; it allows nothing further.

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**Mr. Jagmeet Singh:** That's very, very useful. Thank you.

**The Acting Chair (Mr. Rick Bartolucci):** Doctors Levitt and Kaplan, thank you very much for a very insightful presentation. Have a wonderful day.

**Mr. Mike Colle:** Mr. Chairman, a point of order. Just to make sure that we're keeping track of the acronyms—I think we're up to about 87 now: DACs, AMAs, WPI, SABS, cats, GCS. The researcher is still doing it? Thank you.

**The Acting Chair (Mr. Rick Bartolucci):** Right. Okay.

#### ONTARIO PSYCHOLOGICAL ASSOCIATION AUTO INSURANCE TASK FORCE

**The Acting Chair (Mr. Rick Bartolucci):** Our next presenter is from the Ontario Psychological Association Auto Insurance Task Force: Amber Smith. Amber? Perfect.

**Dr. Amber Smith:** Thank you. And I have with me Dr. Faith Kaplan.

**The Acting Chair (Mr. Rick Bartolucci):** Great. Welcome.

**Dr. Amber Smith:** Thank you. We're both members of the OPA task force.

**The Acting Chair (Mr. Rick Bartolucci):** Amber, go ahead.

**Dr. Amber Smith:** Thanks. We wanted to start by reminding you all of the purpose of accident benefits under the SABS, the statutory accident benefits schedule: to provide timely access to funding for services. Of course, impairment and benefits include psychological and rehab benefits, and are meant to reintegrate the person into their family, the rest of society and the labour market, and to reduce disability due to those impairments. That's the starting point for everything.

Psychologists are independent and autonomous regulated health care providers. We're trained from the bachelor's to the doctoral level in normal and abnormal mental health. We're experts in scientific methods applied to health and behaviour, and we're experts in measurements. We provide scientifically valid and reliable methods for assessing impairments; cost-effective, empirically validated, evidence-based treatments; and gold-standard interventions for depression, anxiety, brain injury and chronic pain.

In Ontario, we see patients with traumatic injuries under WSIB auto victim services and private health plans. We're employed in specialty clinics and hospital programs for chronic pain, depression, anxiety disorders, schizophrenia, cognitive impairments and brain injuries, but we cannot bill OHIP directly. We are not available under OHIP.

Why fund psychologists under auto? Car accidents are the single biggest cause of civilian post-traumatic stress and brain injuries. Psychologists provide the most effective treatments for PTSD, and we're the only profession able to measure and diagnose cognitive impairments due to brain injury. For accident victims, we assess and treat PTSD, depression, chronic pain, traumatic grief and brain injuries. We help people get back to school and work, and we assess and measure disability.

We tend to be involved with the most seriously injured and vulnerable patients. We work with those high-needs victims with brain injuries and psych disorders. We are critical to help them prevent disability. Historically, it's only about 2% to 4% of services in Ontario—med rehab—that are to psychologists, so we see a very select proportion of very vulnerable people.

As you know, mental health is extremely misunderstood. Services are historically underfunded. We have studies across the country that tell us this time and time again, and auto is no different.

This is a very large slide with a lot of information referring to something that just came out from the Canadian Psychological Association that talks about the severe gap in the ability of patients to receive psychological services that are evidence-based, scientifically valid and the gold standard, but patients can't reach them, and from the FSCO website talking about how many goods and services required to rehabilitate people are not available under OHIP. You'll get the slides and we can provide this if you'd like it.

Auto accident victims' injuries are invisible, an easy target for stigma, misunderstanding and discrimination, and they have high rates of disability.

The OPA has evidence-based guidelines for assessment and treatment services that are billable under auto insurance, developed by over 20 psychologists in the province, that were published in an international peer-reviewed journal.

The OPA auto task force committee—Faith Kaplan is co-chair—and the HCAI anti-fraud committee participated in the professional identity tracker. Many of our members really enjoyed that and gave feedback on how to make that product better for the anti-fraud initiative. We're currently developing joint guidelines for IE assessments—that's insurer examination—and MIG determinations with our colleagues in CAPDA.

**Interjection:** That's minor injuries.

**Dr. Amber Smith:** Minor injury, I see. MIG, minor injury; my apologies.

When we presented to the standing committee last year, we presented our concerns that the 2010 reforms were resulting in harm to legitimately injured people with brain injuries and psychological impairments. When we presented to finance and economic affairs in July, we presented data indicating that the reforms had resulted in significant improvements to cost control for the insurance industry, for which we were very glad. However, we also presented data from reputable clinics outside the GTA that indicated approvals for recommended assessment and treatment services had decreased significantly since the reforms.

Here's one of those slides. You can see the difference. This is in a very, very high-quality ethical clinic that sees a lot of very brain-injured and vulnerable people. You can see those approval rates have changed significantly from 2010 to 2012.

Here's another slide where you can see the difference from 2008-09 to August 31, 2010, and then on the bottom, after September 1. You can see the reduction in the approval rates and the increase in the denial rates. These are very ethical, high-quality clinics outside the GTA, not committing fraud, following standard guidelines.

As a result, we indicated our concern about disputes, disability, increasing tort and BI costs, more mediation and arbitrations, and increased cost to the public systems. We also said that we were very concerned about what was happening with our patients: more frustration, more assessments, less treatment, delays without resolving disputes and more problems for our injured patients.

In August, we were very pleased to present to the anti-fraud task force. We told them how many of their recommendations were consistent with what the OPA had been recommending for years. We love quantifying. We love putting numbers to things. This was all good and we were really pleased to be a part of it.

We recommended to them that they assess the successes that had been achieved by the 2010 reforms before enacting more intrusive and costly additional regulation, making sure that they protected patient privacy and due process in any investigations of fraud—and that we would like to be a part of any implementation, discussion and planning.

Today, we want to follow up with you to provide an update on what we're hearing from our members about assessment and treatment. AB costs continue to be down from what we see. Fraud initiatives come into effect next month—that's awesome. Approvals for reputable assessment and treatment services, unfortunately, continue to be down. What are the effects on insurance examinations? What's happening with minor injuries? And what does this mean for our patients?

We polled members whom we knew to be active in auto insurance and whose practices we knew to be reputable. We got replies from these different locations. All reported referrals to their IE practices down 50% to 90% since 2010, and most were reviewing fewer excessive applications. Outside the GTA, they never really saw that many excessive, over-the-top applications to begin with, but inside the GTA, they said that there was a really significant reduction in the applications they were seeing. I got more last night that was consistent with this. So IE referrals seem to be down, bad applications seem to be down, but all respondents indicated that they're being asked more questions in each referral, especially in the GTA. Outside the GTA, the numbers were increasing, but it wasn't so bad; inside the GTA, up to 32 questions in one referral—and they're being asked to answer more questions for lower fees. They were forced into flat-fee agreements with the IE vendors. Sometimes they have to work for free to get the job done in a high-quality way.

We also heard reports about off-loading to the hospital systems, some people waiting over a year to be seen by psychology within the hospital system, ER visits increasing and wait-lists growing.

**The Acting Chair (Mr. Rick Bartolucci):** Two minutes, Amber.

**Dr. Amber Smith:** Okay. In Hamilton, they're looking at studying it and quantifying it because they're seeing it at St. Joe's and Joe Brant.

Excessive applications inside the GTA appear to have decreased—more cost pressures, more off-loading, more people accessing our fractured mental health system that can't handle the increase. Psychologists are doing more for less. There's more competition in the marketplace. Consolidation of IE companies has made people hyper-vigilant, I think, about costs and fraud. Approved plans are being trimmed. The minor-injury cap seems to be creating effective gatekeeping, but now people are having difficulty figuring out who's in and who's out.

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Our traumatized patients are having to go through an extra in-person examination to reveal all their trauma memories before they can even be seen to be treated. This is a significant problem. If a physician diagnoses PTSD, refers to me for assessment and treatment of PTSD, my screening indicates PTSD and then they're sent to a person they will never see again to disclose all their traumatic memories before they can even see me at all.

If someone follows guidelines and appropriate method, they should be able to have a paper review if you

need to—some other process—without having to be seen by an in-person IE. It's an additional cost and an additional barrier.

So now we see that there's a system-wide focus on rehab providers as being too fraudulent or too costly and every patient as being fraudulent. No one is neutral. It's creating a dual burden on patients of both presumption of fraud and micromanaging of costs. We have shorter plans, more partial approvals. It means less proper, effective momentum toward improvement. It's really difficult for our patients, and they're very vulnerable already.

The result is choppy, watered-down care. We hate to see this small percentage of vulnerable injured people injured further by a system that prejudgets them to be fakes and liars and continually questions their need for more. We are hoping for more sophisticated targeted approaches to fraud.

**The Acting Chair (Mr. Rick Bartolucci):** All right. Thanks very much, Amber. You should thank the PC caucus because they've given some of their time so that you could finish.

**Dr. Amber Smith:** Thank you. I did time it, but I—you know.

**The Acting Chair (Mr. Rick Bartolucci):** Laurie?

**Ms. Laurie Scott:** It's actually a very complicated topic, so you did quite well. Did you want to add anything more to finish up? Because you can, I mean—

**Dr. Amber Smith:** Really, mostly what I wanted to convey is that we understand the difficult position that you're in, and we want to provide you with valid, reliable data, not just impressions and anecdotes from around the province. We want to provide you with good data about that small proportion of people whom we see. We recognize that it's a small proportion, but they are extremely vulnerable, and they create high costs. So we want to be able to provide good data so you can create sound, realistic policy that will help them.

**Ms. Laurie Scott:** Okay. I appreciate that. I just wondered, when you were saying about the PTSD—that's post-traumatic stress disorder, right?

**Dr. Amber Smith:** Yes.

**Ms. Laurie Scott:** Do you want to follow through an assessment that person would do, just to give us an example? Just because I think people just need to hear what kind of assessment they're going through now, and maybe add on what you'd like to see it changed to.

**Dr. Amber Smith:** Well, if this wasn't for auto insurance, I could start with what the troubling event was in the person's life, ask them about the event that may or may not have been traumatic for them, ask them to fill in some scales, speak to someone who perhaps knew them well and could tell me what they saw.

PTSD is a disorder of avoidance. One of the key features is that they do not want to talk about, think about, look at, hear anything related to what created the trauma in the first place. So it's a very difficult interview, a very difficult assessment to do. You have to ask very specific questions or the main response is going to be "nothing's wrong," when really they're very impaired.

Under auto insurance, we also have to get at the issue of whether they had anything before the accident that we're not supposed to treat. Was this entirely due to the accident, and is it something that's actually impairing their function that, therefore, needs to be rehabilitated? So we have an extra layer of adjudication we have to do in our assessments.

We also like to speak with the family physician, get some medical files, make sure we understand the person's history. We have to do a far more robust investigation and assessment than we would in just a general mental health clinic because of the adjudicated piece—

*Interjection.*

**Dr. Amber Smith:** And about treatment: Treatment can be protracted. It's very difficult. There has to be a series of graded exposures to the traumatic memory. When you have something like chronic pain in there on top, the pain actually acts as a trigger for the traumatic memory, so it makes it more difficult to treat. Then, if you have depressive amotivation—lack of motivation—on top, it makes them even less likely to want to do this. So treatment when you have that and then a brain injury on top is beautiful.

But treatment for these patients can be very challenging. So when you have this chopped-up care, it's really not ideal.

**Ms. Laurie Scott:** So, really, you're discriminated against if you have post-traumatic stress disorder due to an auto accident—

**Dr. Amber Smith:** Yes.

**Ms. Laurie Scott:** —which is what the previous group was trying to point out.

**Dr. Amber Smith:** If you have a sprain or a strain, and perhaps you have something more physical that someone can see, it might be easier to determine that you don't have a minor injury. If you have post-traumatic stress disorder, you're being subjected to this extra level of a whole other in-person examination before you even get to see someone who will treat you, and you have to expose all your traumatic memories to this person. It's really not good for the patients.

**Ms. Laurie Scott:** No. So would you—we as a party are trying to present some alternatives to the auto insurance industry, but would independent peer-to-peer assessments help alleviate the number of assessments that occur, do you think? You're a professional in the business.

**Dr. Amber Smith:** I'd want to know more about what you're proposing. It sounds like it could. One of the things that our members from the field indicated is that paper reviews have all but disappeared, and it does seem like—you know, the example I gave of a physician in our community who diagnosed PTSD, referred to our clinic, and our screening suggested indicators of PTSD. It seems that if one of my colleagues was able to review that paperwork indicating that, then it should be fundable, that we should be able to assess that person properly, as opposed to having them go to an in-person assessment, and the higher burden and higher costs associated with that transaction.

**Ms. Laurie Scott:** Okay. That's, I think, what we're proposing, roughly, without—

**Dr. Amber Smith:** A paper review, a peer review sort of thing, yes.

**Ms. Laurie Scott:** Yes, so you don't have to waste time and find other people and—

**Dr. Amber Smith:** Right, or maybe an in-house consultant, something like that.

**Ms. Laurie Scott:** Definitely something needs to change. Do you think we're all talking about 1% of the population that fit into this, or—

**Dr. Amber Smith:** Well, we only see 2% to 4% of all injured people.

**Ms. Laurie Scott:** Okay. What else do you think would speed this process up, so that people get assessed more quickly but also get treated more quickly, as opposed to being caught in this mess of mediation?

**Dr. Amber Smith:** I think there really ought to be a way to be able to say that if you're following the standards that are set in our assessment and treatment guidelines, and you have the screening indicators, which, again, are in the guidelines, that even if you want to subject it to a peer review, a paper review, that really ought to be good enough. The patient shouldn't have to prove themselves and expose themselves in that way and create that higher level of burden and disability. I think more paper reviews—if people, again, are following the method—should be reasonable.

**Ms. Laurie Scott:** Okay.

**Dr. Faith Kaplan:** I had one thought, just in response to that: We do have a number of different weights on our system. To the extent that the anti-fraud measures give everybody a higher level of comfort that we are dealing with legitimate providers and people who are legitimately injured, it may be that some of this atmosphere of generalized distress drops away—

**Dr. Amber Smith:** That would be nice.

**Dr. Faith Kaplan:** —and that those who are legitimate providers and genuinely injured folks will be able to move forward in a more positive, constructive, collaborative way if we have more targeted approaches to fraud.

**Dr. Amber Smith:** Yes.

**Dr. Faith Kaplan:** So we're very, very supportive of the anti-fraud measures, and think that rather than trying to stifle everybody, if we can focus very vigorously on those that are committing fraud, it may free up and encourage a greater kind of collaboration on the other side.

**Ms. Laurie Scott:** Okay. I agree.

**Mr. Jim McDonell:** Just a small one: We seem to have two levels, and a lot of your energy is going into proving—not that they're not needing attention, but that they actually got hurt in the accident. And these are—

**Dr. Amber Smith:** I'm sorry, I can't hear you completely.

**Mr. Jim McDonell:** Oh, I'm sorry. Part of what you're trying to do here is prove that somebody was—not that they need some psychiatric help, but the fact that they actually got hurt in an accident which caused the

requirement for the help. I would take it that these are illnesses that require—no matter where you get hurt, they need attention. So it seems like our health care system is failing us by not really treating people where it is actually confirmed that they need help. We're spending time trying to figure out whether they got hurt, and whether or not the health system would pay for it. Is that right? And really, the question should be: If they need help, they need help, period.

**Dr. Amber Smith:** Right now, unfortunately, for mental health we don't have a very cohesive system anywhere at all. Auto is only one example of where people with mental health problems aren't being picked up.

**Mr. Jim McDonell:** So overall—

**The Acting Chair (Mr. Rick Bartolucci):** Thanks very much. We'll go over to the NDP. Teresa?

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**Ms. Teresa J. Armstrong:** I have a question with regard to the mental health piece that we're talking about right now. You talked about that someone can have mental health as a result of an accident and develop post-traumatic stress disorder, or that people have a pre-existing mental health and that could escalate it further.

**Dr. Amber Smith:** Yes.

**Ms. Teresa J. Armstrong:** How does the pre-existing mental health piece fit into the new catastrophic definition? Is it taken into consideration at all?

**Dr. Amber Smith:** I do assessment and treatment. I will defer—do you want to answer that? I will defer to my disability assessor colleague for that.

**Dr. Brian Levitt:** It's a great question. You're asking basically about causation, so if there are pre-existing issues, how do we look at that in catastrophic? That's actually part of what's considered in the AMA guides, that we're supposed to look at a history; we're supposed to look at the impact of an accident. As long as the accident plays a significant role, the way the catastrophic impairment has been discussed, the way we look at it, we go ahead and we make a determination with respect to catastrophic as long as the accident plays a significant enough role. Someone may have a pre-accident vulnerability; the issue is, if the accident hadn't happened, would they be where they are now? Does that answer your question?

**Ms. Teresa J. Armstrong:** Yes, thank you.

**Mr. Jagmeet Singh:** So, just to understand—you can stay there too. The microphone will work there, yes. You can all just stay there together.

**Dr. Amber Smith:** Actually, it's the same criteria that has to be used even when proposing the most basic assessment or treatment plan. I don't want to speak on catastrophic because I don't do it, but the criteria for any access to any benefit under auto is that.

**Mr. Jagmeet Singh:** What I'm understanding from the overall—you've kind of painted a picture of what's going on in terms of pre-2010 and post-2010. Much the same way the NDP talks about a balanced approach to balancing the budget, I'm understanding now that we should also look at a balanced approach in dealing with

fraud as well so that it doesn't negatively impact those people who are being treated. One of the things I'm noticing, if I understand this trend, is that the approval rates for treatments are going down, the denial rates are going up, and the approval rates for partial approvals are going up. So people are getting partially approved at a higher rate but not fully approved. So what's basically going on is that if you look at the landscape of the treatment—and tell me if I'm understanding this right—the landscape of the treatment is that we're getting less full treatment plans and more denials, so people aren't getting the quality of treatment that they should be getting.

**Dr. Amber Smith:** Yes, that's true. Also, there's a pressure on proposing psychologists to propose shorter plans in hopes that they're more likely to be funded, because adjusters are also very aware of cost. So from the adjusters, the proposers, the IE assessors, everybody is kind of nickel-and-diming the care, and it ends up with this choppy, watered-down care. I really think everyone is trying their best. I'm only speaking about, of course, the most ethical providers. Everybody wants to do well. The adjusters I speak to want to fund legitimate treatment. The IE assessors are trying their best to look after—everyone wants the system to function for the patient, but we're ending up in this system where everything is partially approved and smaller and shorter. It makes it very difficult to have any momentum in rehabilitating someone.

**Mr. Jagmeet Singh:** So just as feedback—I mean, what you're doing is providing feedback so that on the ground level, in primary care and on the front lines of providing this care and treatment for people, this is what you're noticing, that the direction that we're headed in is this choppy and not full, expansive treatment. That's something we should keep in mind when we're moving forward with recommendations to improve the auto care system.

**Dr. Amber Smith:** And bear in mind, of course, we see this very small proportion of people. I don't know and can't speak to the 95% that we don't see. For these very injured, vulnerable people, this small percentage, that's what's happening, and it's not effective care for them.

**Mr. Jagmeet Singh:** Okay. Can you comment on just specifically—you talked on this briefly, but just maybe the MIGs and the impact on treatment in terms of psychological treatment, as well as the new cap; before it was \$100,000 and now it's reduced to \$50,000. What has been your experience with the impact on treatment for the patients that you deal with?

**Dr. Amber Smith:** For the minor injury cap, what we're seeing is that it seems to be holding in plenty of people. There are some questions about how to determine who's in and who's out. So many of our colleagues are getting those assessments to determine whether someone has a psychological condition that should take them out of the minor injury cap or not. We had been seeing some terrible misapplications of that minor injury cap for

people with frank brain injuries and post-traumatic stress disorder. I've been seeing a little less of that over the past year; most of our colleagues who are doing the IE work are obviously taking people out of the minor injury cap.

The concern is really the process the patient has to engage in when it really is quite obvious that they were misplaced and didn't have minor injuries. They shouldn't have to go through this big—sometimes it's multiple IEs for every injury that they've sustained, so they have to see a physical assessor, an OT; it's like a catastrophic assessment for minor injury determination.

The \$100,000, the reduction—well, patients are running out. Our patients are running out; they just are. They're running out.

**Mr. Jagmeet Singh:** Okay. And just let's touch on this idea that there are some folks, maybe a majority of folks, who are placed into the MIG, the minor injury guideline, that may be appropriately placed there, but for the folks that aren't supposed to be there, the process to get out of there, I guess, to put it that way, is very onerous and very difficult. Your feedback is that there needs to be a better mechanism for the small percentage of folks that maybe are misappropriately put into that category. For them to get out of it, there have to be some easier steps, because otherwise it's very difficult. Is that what I'm understanding?

**Dr. Amber Smith:** Yes, and I have to think it's awfully costly when it goes through three IE assessments just to get up to the \$50,000 level and the indicators are all right there.

**Mr. Jagmeet Singh:** Okay. And just with the IE issue, the independent examination, my colleague brought up a good point. I think it's a good system, but one of the proposals has been that peer-to-peer reviews of—

**The Acting Chair (Mr. Rick Bartolucci):** Two minutes, Jagmeet.

**Mr. Jagmeet Singh:** Sure. So maybe I'll just ask, instead of putting my opinion forward: What are some concrete ways that we can—do you see problems with the independent examiners, the system that currently exists, and what are some suggestions to make it better?

**Dr. Amber Smith:** There's an awful lot of variability, and one of the things OPA and CAPDA are doing is to develop joint guidelines, again, on assessment methods so that we have an agreed-upon set of methods that will clear that up.

**Mr. Jagmeet Singh:** Okay. And what about the idea of having actual practitioners, people who are actually treating psychologists, be involved in the independent examinations, as opposed to strictly examiners?

**Dr. Amber Smith:** Yes.

**Mr. Jagmeet Singh:** That's what I think as well. All right.

**The Acting Chair (Mr. Rick Bartolucci):** Thank you very much, Mike.

**Mr. Mike Colle:** Just briefly, who pays you?

**Dr. Amber Smith:** Oh. Who pays me to do—

**Mr. Mike Colle:** Do your work.

**Dr. Amber Smith:** To do the assessment and treatment? Various insurance providers. In this case, we're talking about the auto patients: auto insurers.

**Mr. Mike Colle:** Yes. So that's part of a private health care system.

**Dr. Amber Smith:** Yes. I manage a busy private clinic, and so we see—it's a bit like American health care. We see WSIB, auto, veterans, private, out-of-pocket.

**Mr. Mike Colle:** So how many millions of dollars a year do insurance companies pay out to private health care for people that have psychological impairments? Do you have any idea?

**Dr. Faith Kaplan:** I think there's a bit of subtlety when you say, "Who pays us?" though, just to step back a bit. It's actually the insured person's benefits.

**Dr. Amber Smith:** Yes.

**Dr. Faith Kaplan:** And the insured person then seeks treatment. A proposal is developed. If they consent to it, it then goes to their insurer to see if the insurer will agree to give them the funding to pay for those services.

**Mr. Mike Colle:** But the insurance company cuts you a cheque.

**Dr. Amber Smith:** If the insured person requests it. The insured person has to come to us and request to use their accident benefits in this way.

**Dr. Faith Kaplan:** When we last saw about amounts of costs that were going to psychological services, and this is off the top of my head and I will look it up and get it for you, I think it was around between 2% and 4% of the amount spent overall on ABs that went to psychological services.

**Mr. Mike Colle:** It's a small portion, yes. If research can get the various costs of this private health care system that includes all private health care providers that are under the umbrella of insurance.

Also, you made a point here about the fact that, as insurance-funded services shrink, the hospital wait-lists grow and the ER visits increase. How do you quantify that, or where are you getting that information?

**Dr. Amber Smith:** That was a quote from a hospital psychologist in London.

**Mr. Mike Colle:** That was a hospital psychologist in London who said that. Could you give us his name?

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**Dr. Amber Smith:** I will ask.

**Mr. Mike Colle:** If you could forward that, please.

**Dr. Amber Smith:** Okay.

**Mr. Mike Colle:** What's the difference between the Canadian Academy of Psychologists in Disability Assessment and the Ontario Psychological Association? Are you in—I'm not quite sure—CAPDA and—

**Dr. Amber Smith:** OPA. CAPDA is a federal organization, and it focuses on assessment of disability. We're a provincial organization and we cover the gamut. We do assessment and treatment. The disability assessors don't necessarily do assessment and treatment.

**Mr. Mike Colle:** So they just do assessments?

**Dr. Faith Kaplan:** Some of the members do treatment.

**Dr. Amber Smith:** Some of the members do treatment, but the organization is about disability—

*Interjection.*

**Dr. Amber Smith:** Yes. The organization is about assessment.

**Mr. Mike Colle:** They do assessments and you do everything. Like, you do the treatments?

**Dr. Amber Smith:** Well, some of our—we can have some of the same membership, but that organization is about doing disability assessments. Ours is a fraternal organization, open to all psychologists.

**Dr. Faith Kaplan:** And many of the psychologists in the Ontario Psychological Association are not involved in the auto sector. Many are in education, corrections, industrial psychology. A wide range of roles that psychologists have in our communities are all part of that one fraternal organization.

**Mr. Mike Colle:** And what do you get paid per assessment by the insurance company?

**Dr. Amber Smith:** Which kind of assessment? There are many different—

**Mr. Mike Colle:** When you're trying to assess a patient to see if they are basically injured—

**Dr. Amber Smith:** Every assessment under auto insurance is capped at \$2,000, and we also have—

**Mr. Mike Colle:** So for every assessment done, a psychologist would get \$2,000?

**Dr. Faith Kaplan:** No. There is something called a professional services guideline that sets an hourly fee for psychologists, as well as for other health professionals. In addition to the professional services guideline, an assessment fee cap was introduced in the more recent regulations.

What we have are assessment and treatment guidelines, and I'd be very happy to share them with you, that outline—answering your question about what are the different tasks you need to do when you're undertaking an assessment—and, in outlining those tasks, talk about reasonable ranges of time that are required to do each of those tasks. Then, depending on how much time you need and that professional hourly fee—

**Dr. Amber Smith:** And how complicated the patient is.

**Dr. Faith Kaplan:** —you get a number of hours. And then even if it's going to take, say, 16 hours, you still cannot charge that full amount, because there's a cap that limits it.

For a number of patients—say where we were talking about the pre-existing factors—that's where those assessments are likely to be more complicated and take longer to do.

**Mr. Mike Colle:** Who pays for those assessments?

**Dr. Faith Kaplan:** Again, the services are paid for when they're approved, and only approved services are paid by the insurer.

**Mr. Mike Colle:** The insurer pays for the assessments, and then that patient—do they get any assessment

from the public health sector, or is it just the private health sector?

**Dr. Faith Kaplan:** Again, many of the patients who are being referred to us by their family doctors are patients for whom there are not timely services available through the public health sector, and that's why they're being referred to us.

**Mr. Mike Colle:** Do they get any assessments from the public health provider?

**The Acting Chair (Mr. Rick Bartolucci):** Two minutes, Mike.

**Dr. Amber Smith:** That's very difficult to answer. There aren't very many services available in the public system.

**Mr. Mike Colle:** So the only service really available to people in auto insurance is private health care. Right?

**Dr. Amber Smith:** It's not the only. It's very fractured.

**Dr. Faith Kaplan:** But some of our patients, say, may be seeing—in Hamilton, there are these family health teams, many of whom will have a social worker or a psychosocial counsellor as part of their staffing. We find it very interesting that many of our patients will have seen one of those counsellors as sort of the first resort that the family physician—

**Mr. Mike Colle:** But they don't get paid by the insurance company?

**Dr. Faith Kaplan:** No.

**Mr. Mike Colle:** Okay.

**Dr. Faith Kaplan:** And when that counsellor feels that there's something more significant that requires more specialized care, they will refer them.

**Dr. Amber Smith:** Then they refer to us.

**Dr. Faith Kaplan:** That's one example where somebody will have gotten some services first that were not paid by the auto insurer.

**Mr. Mike Colle:** Yes, okay. Thank you. But just to make sure, what I was asking for is the cost of this private health care system that we have here in Ontario and the scope of it—

**The Acting Chair (Mr. Rick Bartolucci):** He made a note of it already.

**Mr. Andrew McNaught:** So you want it broken down by specialty—

*Interjections.*

**Mr. Mike Colle:** I know it's going to be difficult, because they gave a helpful percentage, but just to—I don't know where we get that, from the insurance companies or whatever, just to see what the cost of this private health care system is in Ontario.

**The Acting Chair (Mr. Rick Bartolucci):** Great. Thanks very much.

**Dr. Faith Kaplan:** I guess part of what we're discussing really is, where do no-fault benefits for medical and rehabilitation fit into our overall health care system?

**Mr. Mike Colle:** Yes. I just think most people don't realize we have two health systems here in Ontario, and especially, very accentuated, in the auto sector. They

think it's a public health care system, but when it comes to auto, there's a mammoth private health care system.

**The Acting Chair (Mr. Rick Bartolucci):** Ms. Kaplan, Ms. Smith, thank you very much. Your time is up.

**Dr. Faith Kaplan:** Could I just add one detail to that public-private mix?

**The Acting Chair (Mr. Rick Bartolucci):** Sure.

**Dr. Faith Kaplan:** It's even a bit more complicated, because people often have private extended health care benefits.

**Dr. Amber Smith:** Actually, they have to be accessed first.

**Dr. Faith Kaplan:** Separate from auto, right. And so, if we're seeing somebody, the first payer we bill is their private extended health benefits—

**Dr. Amber Smith:** That has to be exhausted.

**Mr. Mike Colle:** Before—

**Dr. Faith Kaplan:** Before auto.

**The Acting Chair (Mr. Rick Bartolucci):** Great. Thank you very much for the presentation and for the clarification. Thank you.

#### EXPERT PANEL, ONTARIO REHAB ALLIANCE

**The Acting Chair (Mr. Rick Bartolucci):** All right. Our last group is the expert panel of the Ontario Rehab Alliance. We welcome Patricia Howell, Rhona Feldt-Stein and Tracy Milner.

Patricia, are you doing the presentation? Okay. Welcome.

**Ms. Patricia Howell:** Good afternoon.

**The Acting Chair (Mr. Rick Bartolucci):** Good afternoon. Go ahead.

**Ms. Patricia Howell:** My name is Patricia Howell and I am here with Rhona Feldt-Stein and Tracy Milner. We are therapists with extensive experience working with auto insurance victims. We are here today representing a 25-member panel comprised of experts in the fields of rehabilitation, neurology, psychiatry and neuropsychology, clinicians from both the public and the private sectors, and not-for-profit groups that support accident victims across Ontario.

In 2011, our group prepared a detailed, evidence-based analysis of the FSCO cat panel report. We agreed that the catastrophic definition could be improved in some areas; however, the definition proposed by the FSCO expert panel had serious flaws: scientifically, clinically and practically. Our group worked diligently to propose evidence-based revisions that would help resolve these issues. When the superintendent's report was released, we were dismayed to see that our feedback was largely ignored, and new barriers to care were added. During these hearings and at the multi-stakeholder round table that was recently held, groups representing accident victims and the clinicians who work with them have been speaking out with one voice against these changes.

We were so pleased to hear in last week's budget announcement that the government is proposing that a committee take time for further study and consultation on the cat definition before any changes are made, as well as a committee to look at the impact of the reforms so far. The Ontario Rehab Alliance and our expert panel are committed to being part of this process.

We appreciate this opportunity today to briefly outline our concerns with the proposed cat changes. We will also present some new data that demonstrates the devastating impact the September 2010 cuts have had on the estimated 12,000 Ontarians who sustain a serious non-cat injury every year.

**Ms. Rhona Feldt-Stein:** Our concerns with the cat changes fall into three areas: the process, the specific criteria proposed, and the impacts these changes have on the most seriously injured.

Regarding the process, six out of eight members of the FSCO panel are academics and researchers with little to no clinical experience with auto insurance victims, and are therefore not able to connect to the real-world implications of their recommendations. Half have been consultants to IBC, introducing potential bias. In addition, they used the Delphi method to develop consensus, a method which was previously discussed today.

Our second concern relates to the specific changes proposed. We do not support removing well-validated and widely used assessment tools such as the GCS before the new tools have been proven clinically relevant, valid and reliable—

**The Acting Chair (Mr. Rick Bartolucci):** Excuse me just for a second. Sorry to break it up, but for Hansard purposes, could you identify yourself?

**Ms. Rhona Feldt-Stein:** Okay, sorry. I'm Rhona Feldt-Stein.

**The Acting Chair (Mr. Rick Bartolucci):** Thank you so much.

**Ms. Rhona Feldt-Stein:** You're welcome—as well as disallowing the combination of mental and physical impairments.

We do not support arbitrarily setting thresholds that are far too difficult to reach, especially given that there is no evidence to indicate that the estimated 1% of victims who are deemed catastrophic under the current definition are accessing benefits inappropriately. It is very important to understand that even if deemed cat, claimants only receive services and supports if they are proven to be reasonable and necessary.

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We do not support setting thresholds that are not consistent for all disability groups. For example, under the proposed definition, people with a single limb amputation or paraplegia would be deemed cat, but those with psychiatric conditions or brain injuries who are dependent on others, unable to work or go to school, and have devastating social and behavioural problems would not qualify.

We do not support introducing criteria that are discriminatory based upon age or where someone lives. For

example, in the proposed definition, a child with a brain injury who happens to live near one of the five level-1 trauma centres in Ontario could be deemed cat, based on positive imaging, while another child with the same imaging who happens to be seen in another hospital would not qualify.

We also do not support mandating that family doctors sign treatment plans where evidence shows that they lack the qualifications and time to do this, especially given that the trend is to download responsibilities from our overworked family doctors, not the other way around. For victims who have a family doctor, they would have to see their doctor about every two weeks, which we know is not reasonable. For the 600,000 who do not have a family doctor, that means no access to care.

If proposed changes are implemented as recommended, it is estimated that the number of people deemed cat would be cut in half. The following are some examples of people who would no longer qualify:

—the bright child who is gifted in sports and music, who sustains a serious brain injury, who after six months still needs help with her basic self-care for dressing and feeding, and who, by one year, although able to return to school, is unable to focus, remember or learn in class, and, due to regular behavioural outbursts, has lost all of her friends and cannot participate in individual, let alone team, sports; and

—the accountant who is in coma for several weeks, by six months still has excruciating headaches, weakness and incoordination, and who has such significant cognitive problems that he needs an attendant in the home every day, and by one year is only able to attempt working in a sheltered workshop, supervised, perhaps doing assembly line work, and only part-time.

**Ms. Tracy Milner:** I'm Tracy Milner, and we'd like to now discuss the impact of the 2010 reforms on those with serious non-catastrophic injuries.

The insurance industry's rationale for the cuts of the serious non-catastrophic benefits in 2010 was that costs were skyrocketing because of the widespread abuse and fraud across all injury groups. We now know that fraud happens primarily in the minor-injury group and is more criminal than opportunistic in nature. These issues are being well addressed with the introduction of the minor injury guideline and the activities of the anti-fraud task force, while now insurers are now experiencing record profitability.

Indeed, those with serious non-catastrophic injuries were innocent victims of the war on fraud. A survey of Ontario's health care providers to be released by the Ontario Rehab Alliance this week reveals the devastating impact of the 2010 cuts. The survey found that only 17% of the serious non-catastrophic victims are currently attaining their rehabilitation goals before their funding runs out, as compared to 57% prior to September 2010.

As these funds are depleted for non-catastrophic victims before they are better, their providers are referring them to the public system in record numbers, up from 15% to 62%. Without rehabilitation, these individ-

uals no longer have a chance to return to productive work or school, and will likely go on to secondary mental health complications and become a burden on the health care and social system. The long-term cost to society far outweighs the initial cost of what the rehabilitation would have been.

It is noted that the FSCO expert panel did recognize that those that would eventually be deemed catastrophic would go on waiting for years prior to their designation, and they proposed an interim catastrophic category. However, this would only add more complexity, costs and delays to the system. Instead, we recommend that we need to raise the serious non-catastrophic benefits back up to an appropriate level.

**Ms. Patricia Howell:** In summary, we are advocating for the following: that the proposed changes to the cat definition not be implemented at this time; that the serious non-cat benefits be returned to the pre-September 2010 levels; and that a multi-stakeholder committee should be struck, with at least a two-year mandate, to provide comprehensive and sound recommendations regarding both cat and non-cat categories. Given how much more complex these injuries are, as compared to the MIG, for which the committee was given two years to come up with the recommendations, we also recommend separate subcommittees of experts for each impairment area—for example, one subcommittee with expertise in traumatic brain injury, another one for spinal cord—just because, really, they're such specialized fields. If you want to use the Delphi method, you need a consistent, homogeneous type of group, and we found that that worked well with our panel.

Thank you.

**The Acting Chair (Mr. Rick Bartolucci):** Thanks very much for your great presentation. We'll start off now with the NDP. Jagmeet?

**Mr. Jagmeet Singh:** Sure. Thank you so much. Thank you very much for attending today and presenting. To begin, can you comment on this suggestion that with the current changes to the care provided, or the coverage that consumers get, in the auto insurance package, there's going to be a shift now from the insurance companies paying for this treatment, and the burden's going to shift from that care to the public, and there will be an increased burden or strain on an already burdened public system, with respect to some of these folks who aren't going to be covered. Can you respond to that? Do you agree with this comment, and what's your response?

**Ms. Patricia Howell:** I can respond on that. Our survey found that, basically, if you look at the clients coming to us, if the funds run out in six months to a year, and it's a child with a brain injury, in the past our data is showing that almost all of those are very severely disabled still at the end, when the funds have run out. Our data is showing—and we're not really surprised—that people are trying to get them help, so they're referring them back into the public system. The problem is getting help. There aren't a lot of services out there, so that's another issue.

Certainly, I think when the data comes out—this is a survey of our members. We have providers across Ontario; 85 of our member companies—we had about 130 responses, and they were saying that 62% of individuals were referred back into the public system. I'm sure that when we see public funding numbers coming out, we're going to be seeing wait-lists going up etc. in the public system.

**Mr. Jagmeet Singh:** So that covers that shift to the public system. It's already burdened, and there will be increased wait-lists and increased issues.

**Ms. Patricia Howell:** And it basically can't absorb them; that's the problem. There aren't services out there for them.

**Ms. Tracy Milner:** And I'll just add that when you shift care to a system that was perhaps unprepared to take on this care, and you have wait-lists, then you're going to have patients who are not receiving treatment. What we know, as health providers, is that the severity and the refractory nature of the disability become much more difficult to treat the longer that you wait. Early intervention is key to minimize disability.

**Mr. Jagmeet Singh:** So if I understand what you're saying, if we don't treat these illnesses or these injuries early on, they can actually result in higher costs down the road, because the illness itself can get worse, or the injury itself will get worse, and it actually would cost more to treat it or to deal with it in the long run, then.

**Ms. Tracy Milner:** And not just whatever the initial injury was itself, but also all the secondary complications that come from inability to work and the mental health issues that arise from that.

**Mr. Jagmeet Singh:** So you've touched on this, but perhaps you could tell me the impact to folks who have been deemed to fall within the minor injury guideline. As front-line care providers, what has been your experience, what have you seen and how is that impacting folks who are being put into this category? What's your feedback on that?

**Ms. Tracy Milner:** I would say that primarily our practice works with people who have been most seriously injured. What has been surprising to us, even in our space and the types of people that we treat, is that a number of them with brain injuries or fractures are still being captured by or being told to go through the minor injury guideline. I believe the Auditor General's report, when it was released, had indicated that the minor injury guideline was actually capturing 80% of people in it, and later on in the report it said that 60% of claimants had mild injuries. So that was a bit confusing to me, in terms of looking at what that gap was, and perhaps an over-capturing of what the actual needs were.

**Mr. Jagmeet Singh:** So one of the suggestions that has come up, kind of in line with what you've just said, is that if the vast majority of people are being funnelled into the minor injury guideline—and perhaps many of them are fairly in that category—

**Ms. Tracy Milner:** And appropriately, yes.

**Mr. Jagmeet Singh:** —appropriately in that category—for the small percentage of folks who are not, or

who are inappropriately put into that category, there should be some mechanism for them to appeal that decision to get out of that category and get the proper care that they do require. For that small percentage of folks, do you agree with that, that there should be a mechanism?

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**Ms. Tracy Milner:** Absolutely, and the key is quickly, because we know that, again, we're promoting or we're exacerbating disability the longer we wait.

**Mr. Jagmeet Singh:** Okay. Turning to the proposed catastrophic injury changes, you've talked about some of the concerns and some of the issues and what changes you do support and you don't support. One suggestion that has come up a couple of times, and you might have heard about it today, is that instead of revisiting the definition of what is catastrophic impairment, instead of revisiting the actual definition, put more emphasis on the actual methods or methodology to reach a conclusion—that that would result in more reliable results. Do you support that assertion or that idea?

**Ms. Rhona Feldt-Stein:** Yes.

**Ms. Patricia Howell:** I think our expert panel, when we look at the—when the FSCO panel first came out, we were only given three or four weeks. If you imagine top neuropsychologists together, physiatrists, these are very difficult people to get time with. We had their input and we did do a consultation. We looked at each of the tests that were looked at and we suggested which tests needed to be validated. They weren't a valid test. You can't possibly suggest replacing the current test with a test that hasn't been proven to be a valid and reliable tool. For example, the KOSCHI, which is the tool they were using for children with brain injury, they've revised the actual cut-off point. They made up a new definition. They clearly said that this test needs to be revalidated. That's kind of the approach we took.

Where I think this discussion around the methodology has come up is largely around the combining of the mental and physical. What's coming out, especially from psychologists and physiatrists who are doing those assessments, is that there's really no clear methodology being used out there by assessors since the DAC.

So I think they go together. They're two points. There might be new tools that might be good, promising new tools, but you shouldn't take the ones that we're using away until they're proven valid. Even practical tools: Some of the tools they recommended are more designed for a hospital setting. They're not really to look at function in the community—or they're not available, that no one is doing those tests or no one knows how to do those tests.

So I think, really, all of those fit together is why we're recommending you take a step back and get experts together to really take a systemic look at what changes should happen.

**The Acting Chair (Mr. Rick Bartolucci):** Two minutes, Jagmeet.

**Mr. Jagmeet Singh:** Okay. I'm going to rattle off a couple of quick points, and maybe you can give me some support on that or disagreement if you don't.

One of the issues with the expert panel has been the Delphi method and the way it was set up, based on the number of people on that expert panel as well as the specific type of people in terms of their specialties. Specifically, what I'm talking about is the fact that there's only one psychologist expert on the panel, that the Delphi method used would basically marginalize that individual's opinion, and there could be a consensus decision without having any input from the one psychologist on the panel. That was a severe problem with the expert panel. Do you agree with that?

**Interjection:** Absolutely.

**Ms. Rhona Feldt-Stein:** There was also only one pediatrician on the panel.

**Mr. Jagmeet Singh:** So again, when it comes to young people and young people's issues, they would also be disproportionately marginalized or silenced, given that method and given the fact that there was only one person on the panel.

**Ms. Patricia Howell:** Yes.

**Mr. Jagmeet Singh:** Okay. With respect to the idea that there's already a small percentage of people who are captured by the catastrophic definition: There is no suggestion or proof or evidence that there is a significant need to reduce the population of people who are captured. There's already so few people captured that further reducing that—there's no, I guess, empirical data to support that. Do you agree with that suggestion?

**Ms. Patricia Howell:** Yes.

**Ms. Tracy Milner:** I can't underscore enough, when you say that 1% is the number of people being captured as catastrophic, that we're already doing a good job figuring out who is the most vulnerable and severely injured.

**Mr. Jagmeet Singh:** Fair point. That's good.

**The Acting Chair (Mr. Rick Bartolucci):** Great. Thank you very much. We'll move to the Liberals. Anybody?

**Mr. Bas Balkissoon:** Thank you very much for being here. I just want to go back: If I heard what you were saying, the current definition, you would not use it but go back to what was there before 2010?

**Ms. Patricia Howell:** No. There are two steps. In September 2010, they revised the benefit package for this year's non-cat, and they cut it from \$100,000 in med rehab plus assessment costs, which we know can be expensive because it's a medico-legal system. They also cut—they made other changes, caregiving etc., so that that's not available.

That's what we're disagreeing with, and we're saying that is the larger group. About 10% to 20% of injuries fall into that serious non-cat. Before September 2010, that \$100,000 used to last about two years. It depends on the severity of the injury, but on average, someone with, say, a brain injury, it would last about two years. At about the two-year mark, they can start to do a cat

assessment and then it can take sometimes another two or three or four years till that goes through the whole system of courts and someone is finally deemed cat. So even before, there was a gap till you got that \$1 million and you could get back into rehab again.

What we're finding now, since September 2010, with \$50,000, clients are running out as early as six months. So if you think of working with a teenager with a head injury and you're trying to get them back to school, you've just got them back—they might have started one day a week and been gradually working to go longer, and what's happened is that when they're just sort of in the prime part of their rehab, they're running out of funds. That's the September 2010 piece that we're saying we really should—we are so glad to see the government now wanting to look at the impact of those reforms.

I think we all understand now that that was kind of a blanket cut to everybody across the board just to save money at the time, because costs were escalating. I think now people are kind of realizing that fraud isn't really a broad thing that's happening across all—everyone's trying to take advantage. They're now realizing that there are some criminals out there and we need to go after them; and also, that the fake injuries tend to be not so much—people don't fake brain injury; it's very hard to do. They can fake other areas. It's more in the minor injuries that get exaggerated, so we're asking that we revisit those cuts to the \$50,000.

The second piece is the proposed new definition that was proposed just last year by the FSCO panel, and that we're disagreeing with.

**Mr. Bas Balkissoon:** How do you suggest we go about finding the new definition?

**Ms. Patricia Howell:** How do we—I'm sorry? Can you repeat your question?

**Mr. Bas Balkissoon:** Would you recommend a process towards getting to that new definition? Because most of you expressed dissatisfaction with the expert panel and what they arrived at. What would be a method that the government can use?

**Ms. Tracy Milner:** I think there are two pieces here. One is, do we need to alter the definition at all, given we're already capturing that 1% of people, and knowing that there's a second-tier system already in place that looks at whether or not it's reasonable or necessary for them to have the benefits to which they have access?

The second piece is that if we are going to look at the definition, then it needs to be a multidisciplinary, collaborative, well-founded scientific approach to looking at what the definition is. It looks at impairment but also at what the functional impact is for those people and who requires the most treatment and how. That's going to require more people, more time, and the right people.

**Mr. Bas Balkissoon:** Do you believe that if we improve the assessment process for the further services that some of these people need that it will help some of them? Because I understand from some people that the assessment process to go beyond the \$50,000 has been delayed; it's jammed up with the arbitrators. If that

process was focused on improving it, would it benefit some of your patients?

**Ms. Patricia Howell:** Yes. I think there are two things happening. One, there aren't enough funds, so even if we've got a wonderful adjuster who—and many adjusters have more experience and they understand the conditions and they're easier to work with. Others have no experience at all in that category and they don't understand and they deny everything. So one factor is having enough. Even if we have the most supportive adjuster, who is approving treatment appropriately, we're still running out of funds too soon. So there are two pieces.

Other adjusters, even with \$50,000, it's constantly starting and stopping, because they're denying and you have to stop until the IE's done and you have to wait two months. So you've been working with someone for two months, your next treatment plan is rejected, you've got to wait for the IE to come in. They don't get any help for another two months, they've regressed and you're going back in. There are constant stops and starts, and that's just not good rehab.

**Mr. Bas Balkissoon:** Okay. Thank you.

**The Acting Chair (Mr. Rick Bartolucci):** Thanks very much, Bas. We'll move to the Progressive Conservatives. Laurie?

**Ms. Laurie Scott:** Thank you very much for appearing. I think you've been appearing before. I'm getting to see some familiar faces.

**1640**

Just to follow up on Mr. Balkissoon's comments, is there a jurisdiction that actually provides either a definition or some type of similar category for catastrophic injuries, other provinces, areas in the States, that do a better job of treating so-called catastrophic injuries? It's okay if you don't know one, but I just thought I'd ask, since we're having all these discussions.

**Ms. Tracy Milner:** I mean, certainly, the AMA guide—

**Ms. Laurie Scott:** The American Medical Association.

**Ms. Tracy Milner:** Exactly—is used in the United States and in other places and so forth. I think with any system, there's always the challenges and the benefits to it, so if you're looking at what the system needs to be going forward, then I think it's about looking at it collaboratively now, based on the best information that we have to date.

**Ms. Laurie Scott:** So you're happy that they're going to have a relook at the "catastrophic" definition that was proposed. What happens to the people that are stuck in this grey area right now since 2010 until we're relooking at the catastrophic definition? Do you have some guidance? Because I have heard these stories continuously, and it is not correct, the treatment they're getting. How do we help those people who are in that grey area till we sort out a better catastrophic definition?

**Ms. Tracy Milner:** Well—

**Ms. Laurie Scott:** Or methodology. It doesn't have to be a definition.

**Ms. Rhona Feldt-Stein:** I think, first of all, we have to look at—you know, they need more money. I'll give you an example of a young child who was catastrophically hurt in a car accident at the age of six weeks, and their difficulties didn't start showing until he was three years, but by the time he was four, when a lot of his academic skills and development was just progressing, he ran out of money. And we knew that this child was potentially going to be catastrophic, but where his GCS, where the cut-off was, was just a hair on one side or the other, and he ran out of money at four years of age.

**Ms. Patricia Howell:** And that was when there was \$100,000 plus assessment costs, so we're just seeing this happening across the board now. I mean, there are some individuals who have injuries where \$50,000 or \$100,000 is enough. There are just so many that are not.

**Ms. Laurie Scott:** I'm going to hand you over to our insurance guru here.

**Mr. Jeff Yurek:** I'm not a guru yet. I've got about 24 years more to go.

Anyway, my question, this change to the cat definition—I do have some questions and problems with the proposed changes that I'd like to see fixed before the government brings it out. Because I think you're right: There are going to be a lot of problems in the system—there already are a lot of problems in the system. Because the main thing—I think the catastrophic definition and the rest of the insurance product should be developing treatment to the victims of accidents and making sure—

**Ms. Patricia Howell:** I'm sorry, I'm having a bit of trouble hearing you.

**Mr. Jeff Yurek:** I'm sorry. Last time I was here, they make me move the mike because I was just shouting.

The product itself should be looking after those injured in the accidents. That's what its primary focus should be, and we need to ensure that any changes don't further deteriorate the product, but at the same time also try to make it an affordable product so that people actually buy it and are not without insurance at all.

For rural Ontario in particular, mandating that doctors sign treatment plans—and maybe you can talk about this—there's a whole section of the western side of my riding which had lost three or four family doctors. People don't have a family doctor, and the family doctor who is working has 3,100, 3,500 different patients. Do you not think that's going to burden the system and make treatment plans longer, let alone find a doctor to sign off on it? Or do you think there are other avenues we could take?

**Ms. Patricia Howell:** The issue of having family doctors as gatekeepers came up when they were looking at the 2010 cuts, and it was discussed at length and it was removed. The FSCO panel, the expert panel, did not recommend it. The only person that put it back into the system was the superintendent. Our panel and the Ontario Rehab Alliance were really dismayed to see that, because not only did he suggest it for the interim cat, which is that amount of money that they were suggesting might be allocated to carry you to cat, he also suggested it should

be for all catastrophic claims for the rest of their lives. That means that every time someone needs a new cane or they need occupational therapy or they need any service renewed—because we have to renew our plans every few months—you'd have to go and visit your family doctor and get the doctor to sign off. We estimated that that would represent about 12,000 family doctor visits a year. Taking it on a personal basis, an individual would probably have to go to see their doctor up to 30 times a year to get something signed. So, that's about every two weeks. There's no way that's practical.

The second piece is that we're seeing legislation introduced by this government to download responsibilities from family doctors—they are overworked—with pharmacists being able to inject etc. It's just against all of the trends in health care that a doctor has to oversee a physiotherapist prescribing a cane, for example. That's well within their practice.

The last piece is that family doctors get almost no training on rehabilitation during their medical training. They're trained on medical, not rehab. That's why there are specialists in rehabilitation medicine etc., that are the ones that we work with in terms of getting medical input with our clients. So, absolutely, we do not support it. We think it's just going to add a huge barrier to care to the very vulnerable, those that even are deemed catastrophic.

**Mr. Jeff Yurek:** It seems a step backwards considering nurses and pharmacists are getting an expanding scope of practice that maybe we should look at including other health care professionals, and that's good.

**Ms. Patricia Howell:** Yes.

**Mr. Jeff Yurek:** I have heard, and I don't know if you've heard anything on it, that some of the insurance companies are kind of not on board with the catastrophic change now that it has been changed by FSCO and changed from the original form. Have you heard any of that at all, thereabouts? No? Okay.

**Ms. Patricia Howell:** Do you mean, are they using the new definition?

**Mr. Jeff Yurek:** No, no, that they're not really favourable of the changes that occurred because it has been modified from the original document that was presented from committee.

**Ms. Patricia Howell:** No. I'm not aware.

**Mr. Jeff Yurek:** No? Okay.

The other question I also would like some comment on is the combination of mental and physical impairments. In my practice at the pharmacy I see quite a bit how—not including the mental aspect of injury—it can actually exclude people because the effects that that has on someone who has gone through a traumatic experience or let alone a brain injury of some sort, and it's hard to pinpoint and diagnose. Maybe you can just elaborate more on your thoughts.

**Ms. Tracy Milner:** I would say that the trend in health care—best practices, the World Health Organization and so forth—is to look at people holistically, and to look at the ability to separate cognition from emotional health from behaviour and from physical impairment;

they all intertwine. So to try and take this person and literally chop them up into pieces and say, "Well, no, let's look at each of these in isolation," really isn't what we see affects the person's ability to function. It really is the person's ability to function that has all of the effects on health care, on mental health, on whether they work, on whether they take care of their kids, whether they have functioning relationships, whether or not they're able to go to school and learn and so forth. It's only when you see that in a holistic, comprehensive view that you can actually understand how to treat. So, then, to separate it and say that it doesn't exist that way, that chronic pain doesn't affect it, that psychological, mental and behavioural can't be combined with physical, it just seems not evidence-based.

**The Chair (Mr. Bas Balkissoon):** Thank you very much. We're at the end of questioning—

**Interjection:** You've changed.

**The Chair (Mr. Bas Balkissoon):** Yes, we did.

Thank you very much for being here, and thanks a lot for your presentation.

#### COMMITTEE BUSINESS

**The Chair (Mr. Bas Balkissoon):** Members of the committee, before we adjourn there are a couple of business items I need to go through with the committee. We had requested, as a committee, for OSFI to be here, and GISA. Unfortunately, OSFI cannot be here at our next meeting but GISA can be. I know committee members said they wanted both organizations on the same date, so I'm in your hands—what would you like to do? Mr. Colle, I think this was your concern. Only one group has confirmed they can be here.

**Mr. Mike Colle:** It would be helpful. I mean, this is going to go on for quite a while, so there's no hurry. When they can both be here, get them both here. I think it's helpful. Mr. Yurek, I think, mentioned that they wanted OSFI here too. I don't think there's a time frame here, right?

**The Chair (Mr. Bas Balkissoon):** Okay, so those were the only two groups we have, and we have a third person asking to attend committee. So, then, our next meeting will just be the third person, and we would have to contact them. Mr. Singh?

**Mr. Jagmeet Singh:** My suggestion to the committee, depending on everyone's input on this, is that if we have GISA confirmed for sure, we might as well get the person confirmed and nail them down tomorrow—not literally; figuratively. We can hear from them tomorrow, and then, whenever OFSI is available, we'll hear from them as well.

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I'm just concerned that if we have to wait for both of them to be available on the same date, it might put it off to sometime very far in the future. If we have somebody confirmed for sure tomorrow or on Wednesday, we might as well hear from them and then, certainly, make time for the other folks. That's just my suggestion; I think that makes the most sense.

**The Chair (Mr. Bas Balkissoon):** Mr. Yurek, you have some input?

**Mr. Jeff Yurek:** Since you asked, yes. I appreciate where Mr. Singh is coming from, but I think you get a better bang for your buck if you have both GISA and OFSI on the same day, so that we can use one off the other—whichever one goes in order, but—

**The Chair (Mr. Bas Balkissoon):** Okay.

**Mr. Mike Colle:** We'll have a—what do you call those? One of those runoffs, or head-to-head—

**Mr. Jeff Yurek:** Yes, head-to-head.

**The Chair (Mr. Bas Balkissoon):** Then on May 8—

**Mr. Jeff Yurek:** Do they have a date when they can come?

**The Chair (Mr. Bas Balkissoon):** We were trying for May 8, so on May 8, we don't have any deputants except one person requesting; they were not scheduled. Would you like to cancel May 8 and then try to get all three on the same date?

**Mr. Rick Bartolucci:** Yes, move them so that we can maximize our time as well—

**Mr. Jeff Yurek:** Sure.

**The Chair (Mr. Bas Balkissoon):** Okay. All right. Then we would have to schedule it after May 15.

Now, I have another item: Your subcommittee had agreed that the committee meet on Wednesday, May 15 for the purpose of considering Bill 11, An Act to amend the Ambulance Act with respect to air ambulance services, but they never outlined the business of the committee for the day. Do you want to meet on the 15th, just to discuss what you want to do, or would you prefer to have a subcommittee meeting quickly and give the Clerk instructions? The 15th is not too far away; it's a week and a half.

**Mr. Jagmeet Singh:** I would suggest a subcommittee meeting for that. That doesn't sound like something that a full committee needs to meet on.

**Mr. Rick Bartolucci:** That's reasonable.

**The Chair (Mr. Bas Balkissoon):** Do I have the agreement of all? Okay. We will call a subcommittee meeting quickly, possibly tomorrow, for those on the subcommittee.

The Clerk has just brought it to my attention that because of the aggregates act, most of our dates are scheduled. The next meeting to bring GISA and OFSI together would be after the summer break.

**Mr. Mike Colle:** We could have a special summer session for GISA.

**The Chair (Mr. Bas Balkissoon):** Unless we ask the House leaders to meet. We're already meeting in a constit week, I believe.

**Ms. Laurie Scott:** They could agree to or not, but it's too late to change Bill 11 to Wednesday, right? Because we don't even know who we want to call.

**The Chair (Mr. Bas Balkissoon):** Well, we haven't called anybody. Unless you all agree to cancel the ambulance act and deal with the insurance and finish it, and we'll do the ambulance later.

**Ms. Laurie Scott:** That sounds like a subcommittee call, because there's no way you can get the ambulance act for this Wednesday, right?

**The Chair (Mr. Bas Balkissoon):** No.

**Ms. Laurie Scott:** We're sitting dead right before Wednesday now.

**The Chair (Mr. Bas Balkissoon):** That's right, so I need some suggestions. Mr. Singh?

**Mr. Jagmeet Singh:** I'm going to come back to my initial suggestion, then. If we're not going to be able to hear from either of them until into June, I think we should at least hear from one of them this Wednesday. We'll get the one independent person who wants to give his deputation and GISA. We get two of them—

**Mr. Mike Colle:** They've got to have equal time. We've got to have them both here together. It's not fair to either one of them to—

**The Chair (Mr. Bas Balkissoon):** If you listen to one now, the next one will be in September. This is the problem, unless you cancel the ambulance and you change one of the dates for the aggregates report writing that we agreed to already as a subcommittee and committee. We have some technical problems because there are too many items in front of us.

**Ms. Laurie Scott:** I think we should just go back to subcommittee and see what we can figure out. I mean, we estimated how many days we'd need for aggregate report writing, but we haven't even got the materials from research to see how long that's going to take, so it's very hard to figure this out.

**The Chair (Mr. Bas Balkissoon):** Let me just put it to you, and then we'll agree: So, we'll cancel Wednesday coming—

**Ms. Laurie Scott:** Sounds like it.

**The Chair (Mr. Bas Balkissoon):** —and the subcommittee will meet as quickly as we can to decide on all of the business of the committee, including the rest of the insurance and the rest of the aggregates.

**Interjections:** Yes.

**The Chair (Mr. Bas Balkissoon):** Okay. We'll call a subcommittee meeting, if we can, tomorrow, maybe after question period, or early afternoon, after 3 o'clock.

What we'll try to do is get the subcommittee members so you can notify. We'll try to do it tomorrow or Wednesday, the regular time, when the committee meets. I think Wednesday might be the best. Okay? Agreed.

Meeting adjourned.

*The committee adjourned at 1655.*







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### STANDING COMMITTEE ON GENERAL GOVERNMENT

#### **Chair / Président**

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    Mr. Todd Smith (Prince Edward–Hastings PC)

    Mr. Jeff Yurek (Elgin–Middlesex–London PC)

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Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

    Mr. Jagmeet Singh (Bramalea–Gore–Malton ND)

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## Assemblée législative de l'Ontario

Deuxième session, 40<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 8 May 2013

# Journal des débats (Hansard)

Mercredi 8 mai 2013

## Standing Committee on General Government

Subcommittee report

## Comité permanent des affaires gouvernementales

Rapport du sous-comité



Chair: Bas Balkissoon  
Clerk: Sylwia Przedziecki

Président : Bas Balkissoon  
Greffièr : Sylwia Przedziecki

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Wednesday 8 May 2013

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Mercredi 8 mai 2013

*The committee met at 1615 in room 228.*

## SUBCOMMITTEE REPORT

**The Chair (Mr. Bas Balkissoon):** I call the meeting of the Standing Committee on General Government to order. We're here to deal with the report of the subcommittee on committee business dated Tuesday, May 7, 2013. Mr. Colle.

**Mr. Mike Colle:** Yes, thank you, Mr. Chair. Report of the subcommittee that met Tuesday, May 7, 2013:

Your subcommittee on committee business met on Tuesday, May 7, 2013, to consider the method of proceeding with the committee's study relating to the auto insurance industry and recommends the following:

(1) That the committee meet for the purpose of public hearings on Monday, May 13, 2013 and invite the following organizations to appear: General Insurance Statistical Agency (GISA), the Office of the Superintendent of Financial Institutions (OSFI) and the Financial Services Commission of Ontario (FSCO); and that OSFI be offered the opportunity to appear via video conference.

(2) That GISA, OSFI and FSCO each be offered 10 minutes for their presentations, followed by up to 50 minutes of questions by committee members.

(3) That the committee invite any groups or individuals who were not accommodated on Monday, May 6, to appear before the committee on Monday, May 13, 2013.

(4) That groups and individuals be offered 10 minutes for their presentations followed by up to 30 minutes of questions by committee members.

(5) That the research officer contact the Financial Services Commission of Ontario (FSCO) and the Insurance Bureau of Canada (IBC) for comments on the taxi insurance situation in Hamilton and provide this information to the committee by Monday, May 13, 2013.

Your subcommittee met further to consider the method of proceeding on Bill 11, An Act to amend the Ambulance Act with respect to air ambulance services, and recommends the following:

(6) That the committee invite the following individuals to appear on Wednesday, May 15, 2013: staff from the Ministry of Health and Long-Term Care; the Acting Auditor General of Ontario or his representative; and the Ombudsman of Ontario or his representative.

(7) That ministry staff, the Auditor General and the Ombudsman each be offered five minutes for their

presentations followed by up to 30 minutes of questions by committee members.

(8) That the Committee Clerk, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

I move adoption of the report.

**The Chair (Mr. Bas Balkissoon):** Thank you. Any debate, comments? Ms. Scott.

**Ms. Laurie Scott:** I just ask the Clerk, was there feedback on who can come, or is that kind of afterwards?

**The Clerk of the Committee (Ms. Sylwia Przedziecki):** For the meeting on Monday?

**Ms. Laurie Scott:** Yes.

**The Clerk of the Committee (Ms. Sylwia Przedziecki):** GISA, who were scheduled to appear originally today, are able to reschedule their appearance. OSFI, to my understanding, will be providing their answer in writing to the committee shortly.

**Ms. Laurie Scott:** And FSCO is able to come? Do we know?

**The Clerk of the Committee (Ms. Sylwia Przedziecki):** FSCO, yes. In my conversation with the assistant to the CEO, they indicated a willingness to find the individuals who could respond to the committee's—

**Ms. Laurie Scott:** Then for the next one, May 15, have we heard back that everybody would be able to come of the three that were asked?

**The Clerk of the Committee (Ms. Sylwia Przedziecki):** For May 15? I do not have the feedback for all of them.

**Ms. Laurie Scott:** Okay. My only comment was that if someone wasn't able to come—so if two out of the three could come—we could adjust the times if we wanted to ask more questions, but I don't know at what point I can ask for that to happen procedurally.

**Mr. Rick Bartolucci:** Probably the day of.

**Ms. Laurie Scott:** The day of is okay?

**The Chair (Mr. Bas Balkissoon):** We would have to do it on the day of, and it would be by full agreement of everyone.

**Ms. Laurie Scott:** That's why I was wondering if I needed to bring it up here. So we can just do it the day of if, all of a sudden—

**The Chair (Mr. Bas Balkissoon):** As long as everybody agrees.

**Ms. Laurie Scott:** Of course.

**The Chair (Mr. Bas Balkissoon):** Mr. Singh.

**Mr. Jagmeet Singh:** Could we just agree to that now? I think that's a pretty reasonable thing, that if it turns out that only two of the three can show up, we just allocate more time for questions then. The people who are coming are people whom I'm quite interested in asking lots of questions of. Can we just agree so that we don't have to worry about that? We're already here anyway? Does that sound reasonable?

**The Chair (Mr. Bas Balkissoon):** I don't know. Let me just check. Can we amend a subcommittee report to read that way?

**Mr. Rick Bartolucci:** Well, we're already doing up to 50 minutes. It's in the motion.

**The Chair (Mr. Bas Balkissoon):** No, this is the second part.

**Ms. Laurie Scott:** The second part of what?

**The Chair (Mr. Bas Balkissoon):** Number 7, where it has the three groups. The concern is that if we only have two, can the time be extended for those two?

**Mr. Mike Colle:** Are we talking about number 7 or insurance?

**The Chair (Mr. Bas Balkissoon):** Yes, the auditor, the Ombudsman and the Ministry of Health. If only two out of the three can come, can they take up the time?

**Mr. Mike Colle:** I don't think there's a problem with that.

**Mr. Rick Bartolucci:** It's "followed by up to 30 minutes," so the time is built in, whether one, two or three come. The time is already there.

**Mr. Jagmeet Singh:** You're right. That's where it is.

**Ms. Laurie Scott:** But we wanted to increase the number.

**Mr. Rick Bartolucci:** No, it's already there.

**Mr. Jagmeet Singh:** It is.

**Ms. Laurie Scott:** Up to 30 minutes.

**Mr. Rick Bartolucci:** Yes.

**Ms. Laurie Scott:** But we—

**Mr. Rick Bartolucci:** So if only one shows up, you can question him for 30 minutes, if you want.

**Ms. Laurie Scott:** I want a longer time with some.

**Mr. Jagmeet Singh:** She's right.

**The Chair (Mr. Bas Balkissoon):** She wants to go beyond 30.

**Mr. Rick Bartolucci:** Well, the subcommittee decided that. You'd have to go back to the subcommittee to decide that.

**Ms. Laurie Scott:** Oh.

**The Chair (Mr. Bas Balkissoon):** That's why I'm asking.

**Mr. Jagmeet Singh:** Because it's 30 minutes each, based on three people showing up. If one doesn't show up, then you can take the 30 minutes and spread it out, 10 minutes each, so it should be 40 minutes each. So would we agree that we'll do that?

**Mrs. Donna H. Cansfield:** I think we should do it that day. I don't think we should do it now. Wait and see who shows up.

**Ms. Laurie Scott:** Just wait and see?

**Mr. Jagmeet Singh:** That's fine.

**Ms. Laurie Scott:** Okay.

**Mrs. Donna H. Cansfield:** Yes, that makes sense.

**Mr. Mike Colle:** They're going to be here anyway, I think.

**Mr. Jagmeet Singh:** They probably will be anyway. It's not a big deal.

**The Chair (Mr. Bas Balkissoon):** They should all show up. They're appointees of this government.

**Ms. Laurie Scott:** Well, it's scheduling, right?

**The Chair (Mr. Bas Balkissoon):** Yes.

**Ms. Laurie Scott:** Okay.

**The Chair (Mr. Bas Balkissoon):** Shall I take the vote?

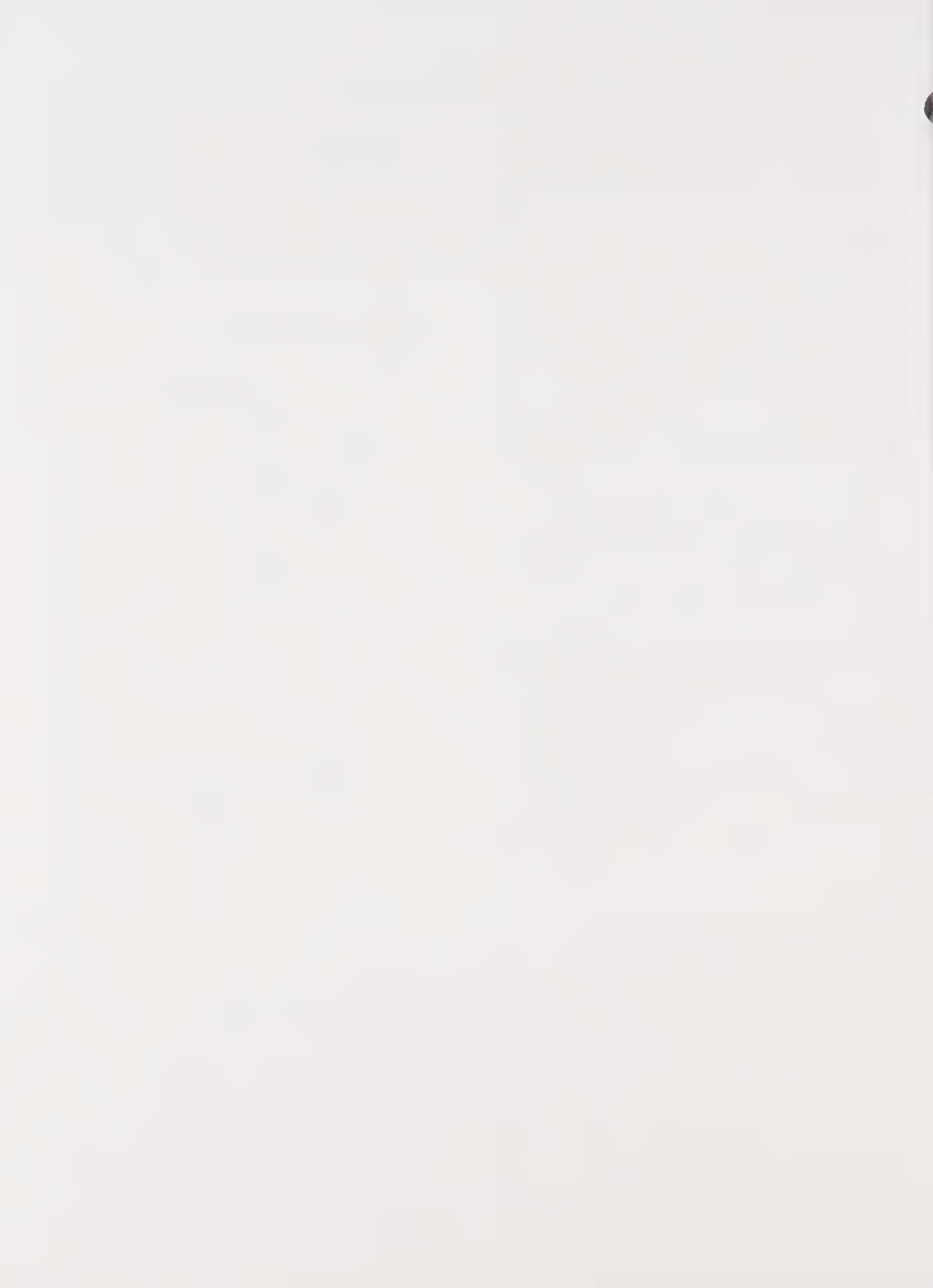
**Mr. Mike Colle:** Yes.

**The Chair (Mr. Bas Balkissoon):** All in favour? Carried.

Any other business? None? This committee is adjourned.

*The committee adjourned at 1622.*







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### STANDING COMMITTEE ON GENERAL GOVERNMENT

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# Official Report of Debates (Hansard)

Monday 13 May 2013



# Journal des débats (Hansard)

Lundi 13 mai 2013

## Standing Committee on General Government

Automobile insurance review

## Comité permanent des affaires gouvernementales

Examen de l'assurance-  
automobile

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Monday 13 May 2013

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Lundi 13 mai 2013

*The committee met at 1443 in room 228.*

**The Vice-Chair (Mrs. Donna H. Cansfield):** I'd like to call to order the Standing Committee on General Government meeting. We have a number of delegations.

AUTOMOBILE INSURANCE REVIEW  
GENERAL INSURANCE  
STATISTICAL AGENCY

**The Vice-Chair (Mrs. Donna H. Cansfield):** Our first delegation is the General Insurance Statistical Agency, GISA. Do we have GISA with us? Would you come forward, please? Good afternoon, and welcome. We ask, if you have a presentation, for about 10 minutes. Then we'll do a rotation; starting with the Progressive Conservatives, we'll rotate. I will let you know, at nine minutes, when you're near the end of your 10 minutes, sir. If you could please introduce yourself and your associate for Hansard, and then we can get started. Thank you.

**Mr. Nurez Jiwani:** Thank you, Madam Chair. I'm pleased to have this opportunity to present today. My name is Nurez Jiwani. I am the director of the regulatory coordination branch at the Financial Services Commission of Ontario, or FSCO. In this role, I oversee the work of the secretariats which coordinate the activities of four national organizations: the Canadian Association of Pension Supervisory Authorities, or CAPSA; the Canadian Council of Insurance Regulators, or CCIR; the Mortgage Broker Regulators' Council of Canada, or MBRCC; and the General Insurance Statistical Agency, or GISA. While the secretariats are located at FSCO, they are not part of FSCO. I will come back to the GISA secretariat later in my presentation.

With me is Sabitha Kanagasabai, the statistical plan lead in the GISA secretariat.

I'm here today to make a presentation on GISA, as requested by you. I understand that the automobile insurance rate approval process in Ontario was detailed in the April 15, 2013, submission of the Financial Services Commission of Ontario to this committee.

An outline of my presentation is provided on slide 2. In particular, I will speak to GISA's mandate, mission, governance, role, priorities and functions related to data.

As noted on slide 3, participating insurance regulators across Canada have the authority under their respective insurance legislation to collect statistics from licensed

insurers. In accordance with this authority, in June 2005 the General Insurance Statistical Agency, or GISA, was federally incorporated as a not-for-profit corporation and appointed, effective April 1, 2006, as the statistical agent for insurance regulators by Alberta, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island and Yukon.

As outlined on slide 4, GISA's mandate is to collect and make available timely statistical information to support a healthy, accessible and responsive marketplace for property and casualty insurance. GISA's mission is to provide effective oversight of the statistical plans and related insurance data, and to ensure that timely, reliable and accurate information is efficiently produced.

Slide 5 outlines GISA's role. GISA provides governance, accountability and oversight of the statistical plans and related insurance data of the participating jurisdictions. As the appointed statistical agent, GISA coordinates and harmonizes the data-filing requirements for insurers and promotes the quality and value of the data, as well as the timeliness of data collection, processing and reporting.

As part of its role, GISA collects and makes available a number of different types of data and information for use by regulators and insurance companies, as well as other stakeholders. Since GISA's inception, the following data have been made available: automobile statistical plan data, which is mandatory for insurers to report on, and includes premium and claim records; and Ontario commercial liability statistical plan data, which insurers operating in Ontario are required to report for commercial liability insurance.

At the request of all the member regulators to obtain profit and expense information at the provincial level, GISA undertook a project to collect this information from automobile insurers. Insurers submitted their 2012 profit/expense information this past March. The information is currently being analyzed for quality and accuracy and will be made available later this summer.

A schematic of GISA's organizational structure is included on slide 6 and shows a governance structure that allows GISA to fulfill its mandate and carry out its activities. The board, together with the three board-appointed committees, provides stewardship and strategic management.

The GISA secretariat is composed of three staff that support the work of GISA's board and committees. As I

mentioned before, the secretariat is located at FSCO, along with the secretariats of three other national organizations, but is not a part of FSCO.

GISA has entered into a memorandum of understanding with FSCO for the provision of supporting functions to the secretariat that include financial services, facilities and information technology services, and human resource support services. The costs incurred by FSCO in supporting the secretariat are recovered from GISA.

Under this arrangement, GISA staff, who are Ontario public service employees, report functionally to the GISA chair and administratively to the director of the regulatory coordination branch at FSCO. In order to carry out its mandate as a statistical agent, GISA retains the services of an external statistical service provider for data and information system services. In addition, GISA retains consultants for actuarial, information technology and legal expertise.

#### 1450

As shown on slide 7, GISA is governed by a board of directors comprised of the nine insurance superintendents, three insurance industry members and two independent board members. The board is chaired by the Ontario superintendent, Mr. Philip Howell. Insurance superintendents of the reporting jurisdictions serve as member directors on GISA's board.

The insurance industry members are the president and CEOs of Wawanesa, Portage la Prairie Mutual, and Aviva Canada. The independent board members include Fred Barth, a chartered accountant; and Bryan Davies, who is currently the chair of the Canada Deposit Insurance Corp. Both the independent members have extensive private and public sector experience.

Slide 8 details GISA's strategic priorities as established in its strategic plan, and these drive the strategic initiatives undertaken by GISA. The strategic priorities are to effectively govern GISA and the statistical plans, promote the harmonized collection and reporting of accurate and reliable data, and build effective stakeholder relationships.

Slide 9 highlights the operational functions performed in relation to the data. The timeliness, quality and accuracy of data reported contribute directly to the value of the data. GISA's operational activities are therefore focused on ensuring the timeliness of the data collection, processing and reporting activities, and ensuring the quality and accuracy of the data reported.

The operational functions include data collection, processing and reporting. Currently, about 140 insurance companies submit statistical data to GISA each year, amounting to about 80 million transactions annually. The data is validated for quality and accuracy and aggregated into industry-level exhibits for review. The GISA consulting actuary, who is an independent actuary, reviews and certifies the exhibits.

Exhibits are made available electronically to the insurance regulators and reporting insurance companies.

**The Vice-Chair (Mrs. Donna H. Cansfield):** You have one minute left, sir.

**Mr. Nurez Jiwani:** Other interested parties may order the exhibits through an order form on the GISA website.

Approximately 70 automobile statistical plan exhibits are produced throughout the year. Full-year exhibits are produced, as well as half-year exhibits. In addition, about 10 commercial statistical plan exhibits are produced throughout the year. A listing of some of the exhibits available related to the automobile statistical plan is included on slide 11.

Thank you for the opportunity to present to the committee today. Sabitha and I look forward to answering any questions you might have.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much for your presentation. We'll start the rotation with the PC caucus.

**Mr. Jeff Yurek:** Thank you, Chair. Thanks for coming out today.

A question I'll start with: Can you explain to me the difference between "calendar year" and "accident year"? We've heard that term used between different agencies.

**Mr. Nurez Jiwani:** For example, for claims for any given year—say, 2013—a calendar year would be all of the claims paid during 2013, whereas an accident year would be—if an accident occurred in 2013, the claims could be paid this year but also in the future. Those would be accident-year claims.

**Mr. Jeff Yurek:** And GISA uses the accident year?

**Mr. Nurez Jiwani:** That's correct.

**Mr. Jeff Yurek:** And so you try to match the costs that have occurred up to a certain point, and then you project?

**Mr. Nurez Jiwani:** Yes. If there's a premium paid in 2013 and there's a claim in 2013, that claim could be paid over a number of years. Based on accident-year calculation, there's a matching of the claim against the premium.

**Mr. Jeff Yurek:** There was a ruling in arbitration, Scarlett v. Belair, due to the new SABS, that occurred just the other week. Based on what has been deemed in that case, we'll say for hypothetical purposes that the case is in 2011, would that mean that your claims data for 2011—that would not reflect what happened with the Scarlett decision, is that right? That decision that just occurred about a month ago.

**Mr. Nurez Jiwani:** Sorry, I'm not familiar with that—

**Mr. Jeff Yurek:** Basically, with the Scarlett v. Belair case, the arbitrator ruled that, in general, the precondition can take effect, and that will allow them to get more money from the insurance company outside of the MIGs. That would affect the cost. So that hasn't been taken into effect in your data, as per se that you're saying.

**Mr. Nurez Jiwani:** As I said, we collect the data from insurance companies. Our job is to collect the data, process the data and report the data. Whatever claims are reported by the insurance companies is what we report.

**Mr. Jeff Yurek:** This data will now be reported and the ruling in arbitration now affects a bunch of other cases, which the insurance companies are going to have to take into account and increase their claims costs. So you'll do an update on the numbers you have when you get that data?

**Mr. Nurez Jiwani:** As the data comes in, it's updated; that's correct.

**Mr. Jeff Yurek:** So you haven't updated the data on that yet. I raised that question because I just wondered how you account for the—the number changes all the time, but I'll go with the low number—14,000 cases that are in arbitration/mediation that yet to be resolved, which would have an effect on the cost to insurance companies. How do you account for that in your report?

**Mr. Nurez Jiwani:** Again, as I said, our job is really the collection of the data, the processing of the data and the reporting of the data.

**Mr. Jeff Yurek:** So if you haven't received that data, then it's not included.

**Mr. Nurez Jiwani:** It's not part of our—

**Mr. Jeff Yurek:** So the 14,000 cases that aren't arbitrated—

**Mr. Nurez Jiwani:** It's not part of our database.

**Mr. Jeff Yurek:** This data also doesn't include the operating cost of the industry, like salaries and wages. It's all pure claims data.

**Mr. Nurez Jiwani:** The data we get is the premium data and the claims data, and that's what we report.

**Mr. Jeff Yurek:** Would you recommend that policy decisions be made solely on GISA data?

**Mr. Nurez Jiwani:** Again, as I said throughout my presentation, our mandate is to collect all of this data. We've been appointed by the insurance regulators for a specific purpose, which is to collect the data, process the data and report. What decisions are made, what the data is used for—it's used, we know, by insurance regulators. We know it's used by insurance companies. But we don't get into those policy issues.

**Mr. Jeff Yurek:** Okay. I agree; the data is good that you collect. The only limitation I see in it is capturing some of the claims that take multiple years to resolve, and including the arbitration. Would you think that would be a limitation of your data?

**Mr. Nurez Jiwani:** Again, what we do is report on the data that is submitted to us.

**Mr. Jeff Yurek:** So you don't want to give me any definite answers, or—no, okay.

The insurance companies, for tax purposes, are trying to estimate what the future costs will be, based on accounting principles. They need to express all the costs, including future costs, within their fiscal year. Therefore we expect to see a difference between GISA data and audited financial data. Would that be correct?

**Mr. Nurez Jiwani:** Again, I'll emphasize what our role is. I cannot comment on other data that's produced by the companies. I can only comment on the data that we collect and that we report on.

**1500**

**Mr. Jim McDonell:** I think what we're asking, really—the data you collect, sometimes because the decisions take multiple years, those numbers are only reflected maybe after years of waiting for these court decisions to be made, or fiscal decisions. What we're trying to get at is, in a financial report they're trying to estimate what they will be, so we're wondering, is it fair to look at the profits of last year on the basis that a lot of these decisions that will affect last year's profits still haven't been made? Is it reasonable to, I guess, sit back here and say, "We're looking at huge profits for last year, but really we're expecting those to be somewhat reduced as decisions are being made?" I think we're just seeing the first ones come through the courts now. Would that be a fair statement?

**Mr. Nurez Jiwani:** Again, I cannot comment on profits. That's information—

**Mr. Jim McDonell:** No, but we're just talking about process here. Not profits, process.

**Mr. Nurez Jiwani:** What we process, as I said before, is data that we collect from insurance companies. What is reported is processed, and then we produce exhibits which—

**Mr. Jim McDonell:** Yes. The way the process works, though, you don't process or have available to you all the costs in a given year until years later, until decisions are made, just by the nature of the way the system works. Not through any fault of your own, but that's just the way it works; is that right?

**Mr. Nurez Jiwani:** Again, we report on what claims are submitted to us. That's all I can say.

**Mr. Jeff Yurek:** Okay. I just have one more question. Your data is now being used as an argument to change policy in Ontario. So I'd like some sort of answer—you're a smart man; GISA is a smart organization. Is that the right thing to do, to use just your data to base a wide-ranging policy change in Ontario—you don't have to look at Mr. Singh for the answer. You just answer me.

**Mr. Nurez Jiwani:** We know that our data is used by regulators across the country. We know that data is used by insurance companies, and we know that the data is used by others. So the data that we produce is important. We take care and make sure that the data is accurate, it's reliable and can be used for all of these various purposes.

**Mr. Jeff Yurek:** Is it wise just to use your data?

**Mr. Nurez Jiwani:** My understanding is that our data is used along with other information.

**Mr. Jeff Yurek:** But this decision right now—currently, your data is being touted as, "This is the reason why we need to change policy."

**Mr. Nurez Jiwani:** We know that our data is used by regulators and insurance companies, along with other information, in making decisions.

**Mr. Jeff Yurek:** Thank you, Chair.

**Mr. Jim McDonell:** I guess the point we're trying to make is that your data—we're not arguing the accuracy of the data you have, but unfortunately by nature your data is incomplete. It doesn't include—by the process

that is set up—all of the losses that the insurance companies would expect to have received for last year. Although the profits look somewhat unreasonable, they aren't a snapshot of the profits for last year. We'll see that snapshot change as more and more information comes through and more and more court cases are addressed, which we expect will take likely years to do. I think that's the point we're trying to make.

Using this data—it's good data, but it's not complete. It's very limited and, in fact, is at the high point. As time goes by, we'll see that reduced down to whatever number that is. Being that there was a significant change last year in the rules, one can only guess at this point. There's no trend data to base that on. Would that be, I guess, a reasonable assumption to make?

**Mr. Nurez Jiwani:** As I said earlier, the claims data that we get—and there was a question about the accident year. Once a claim is made in an accident year, there is a projection—there are actuarial factors that are applied on claims that would come in on those particular claims in future years. So that is taken into account in our data.

**Mr. Jim McDonell:** Fiscally, but not in your actual data. Your data wouldn't include those future claims because they're only actual.

**Mr. Nurez Jiwani:** They're based on actual claims.

**Mr. Jim McDonell:** Okay.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Do you have any further questions? You still have approximately four minutes.

*Interjection.*

**The Vice-Chair (Mrs. Donna H. Cansfield):** Well, what we can do—I'm going to stop this for a second. What we can do, if you would like, is 10-minute rotations, then come back for five minutes. Would that be suitable?

**Mr. Jagmeet Singh:** That's fine.

**The Chair (Mrs. Donna H. Cansfield):** Okay. Let's do that. Then we can come back and just do 10-minute rotations, come back for five in case you've forgotten something you'd like to—

Mr. Singh, would you like to—

**Mr. Jagmeet Singh:** I have a point of order. I don't want to use my time up.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Certainly. No, you won't use your time on the point of order.

**Mr. Jagmeet Singh:** Thank you so much. I take issue with the suggestion that Mr. Jiwani was looking at me for an answer. I've never met Mr. Jiwani in my life, nor have I met any representative from GISA in my life. So the suggestion that he's looking to me for an answer—I take issue with that. He's not looking for an answer. I don't know him. I don't know what answer I would be able to provide to him. So I take issue with that, and I would like the record to show that I take issue with that comment.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you, Mr. Singh. I'm sure Mr. Yurek didn't mean any mal-intent.

Sir, we're going to go to rotation, to Mr. Singh.

**Mr. Nurez Jiwani:** Sure.

**Mr. Jagmeet Singh:** Thank you very much, sir, for attending today. It's a pleasure to meet you for the first time today.

I'm interested in a lot of what you said today. I'm going to take you through some scenarios. Based on whatever limitations you have, please feel free to answer my questions.

I'm going to read a statement from your website to frame my next questions. The statement is, "The statistical data collected provides information that is used in determining and reviewing rates as well as providing more insight into the costs of insurance. The data captured under the statistical plans is at a finer level of detail (e.g. average costs of claims and the number of claims) than that available through financial reports and is presented on an accident-year basis to allow for an appropriate matching of premiums and claims for determining and reviewing rates." That's a statement from your website?

**Mr. Nurez Jiwani:** That is correct.

**Mr. Jagmeet Singh:** And do you agree with that statement, that's that an accurate summary of what your institution does?

**Mr. Nurez Jiwani:** That's what we do.

**Mr. Jagmeet Singh:** Okay. Just to elaborate, the accident-year basis, the purpose for doing that, if I understand it correctly, is, it gives you an opportunity, year by year—so each year—to look at the cost of a claim and contrast that with the premium charged, so you can compare the two on a year-by-year basis. Is that loosely the purpose of having it by accident year?

**Mr. Nurez Jiwani:** That is accurate.

**Mr. Jagmeet Singh:** What that allows one to do is, if you're making decisions on premiums and claims, you have an accurate picture of what each year the costs were and each year what the premium coming in was. It gives you a picture of that year by year?

**Mr. Nurez Jiwani:** That's correct, and that's what's reflected in that statement on our website.

**Mr. Jagmeet Singh:** I'm going to read the next question now. Just to be clear, the data in your reports is the aggregated claims and premiums data that is contained in an individual company's rate application to FSCO. Is that what you understand?

**Mr. Nurez Jiwani:** The data that we produce is data that is submitted directly to us through our statistical service provider.

**Mr. Jagmeet Singh:** And is it also the same type of data, the aggregated claims and premiums data, that would be contained in an individual company's rate application? Each company makes a rate application to FSCO. Would it be the similar sort of data that you're collecting that a company would make in their rate application to FSCO?

**Mr. Nurez Jiwani:** I would not be able to comment on that because I'm not involved on that side of the work of FSCO.

**Mr. Jagmeet Singh:** Fair enough. Tell me if this is accurate, then. Disregarding that you're not sure what's

in the rate applications for each company, looking at your claims data, this is the claims data that individual companies would have—each company would have data. You would receive that individual company's data, or would you receive data from all the companies at once?

1510

**Mr. Nurez Jiwani:** We receive data from all the 140 or so companies on an ongoing basis. As I mentioned, we have 80 million transactions coming in annually. On each policyholder, the premiums, the type of policy they have, the claims that are filed, all of that is submitted on an ongoing basis.

**Mr. Jagmeet Singh:** So on an ongoing basis you receive the entire picture of what a company's claims costs are and what their premiums are coming in?

**Mr. Nurez Jiwani:** That's correct.

**Mr. Jagmeet Singh:** I have another statement I'd like to read to you, and please let me know if you agree with this statement or not. It's a statement that an actuary we consulted provided to us: "The financial-year data used by OSFI will include a higher bulk of reserve than the more accurate accident-year data used by GISA. This error estimate contained in the bulk reserve used by the IBC studies does not have any relation to the actual claims costs and should not be considered as part of the claims when the more accurate estimate used in the GISA data is available."

Can you agree or disagree or have any comments with respect to that statement?

**Mr. Nurez Jiwani:** I can only speak to the GISA data. We don't make a comparison with, for example, the OSFI data. So I cannot comment on that particular statement.

**Mr. Jagmeet Singh:** Perhaps then you could frame it this way: If I want to compare the two data sets so that I understand what GISA means better, are you aware if, in your estimate or in your data, the way you process and analyze the GISA data, you use a different bulk reserve and a different estimate than OSFI would use?

**Mr. Nurez Jiwani:** Again, I'm not familiar with what OSFI uses. I can only speak to what we do, what our actuary does.

**Mr. Jagmeet Singh:** That's fine. I appreciate that. Can you compare the purpose of using accident-year versus using financial-year data? What difference would that result in?

**Mr. Nurez Jiwani:** I know that we use accident year, as is stated on our website, to allow for matching. So if a premium is paid in 2013 with a claim in 2013, which could go on for a number of years, then there's a matching of that claim against that premium. That's the reason we use accident year.

**Mr. Jagmeet Singh:** And what would be different if you used financial year data instead?

**Mr. Nurez Jiwani:** If you just used the claim for this year, then you haven't got all the claims that were paid on that particular accident if you just use this calendar year.

**Mr. Jagmeet Singh:** Okay. You may not be able to respond to this, given the fact that you're not in a position to comment on OSFI data, but perhaps you can provide some commentary; I'll ask you the question. Doesn't it follow that OSFI data that the IBC used in its studies on industry profitability includes a number of accounting procedures that reduced the value of claims and adjustments—accounting procedures not contained in your data? Can you respond to that question in any way?

**Mr. Nurez Jiwani:** I cannot comment because I don't know how OSFI calculates their information.

**Mr. Jagmeet Singh:** Are you aware of the accounting procedures used by OSFI at all?

**Mr. Nurez Jiwani:** I'm not.

**Mr. Jagmeet Singh:** If I described your data as the raw data and unaudited or not subject to accounting procedures, just the raw data of the claims and the premiums, would that be an accurate way of describing your data?

**Mr. Nurez Jiwani:** That would be accurate.

**Mr. Jagmeet Singh:** Okay. Would you agree with this statement: that if you reduce the value of claims payouts, this would reduce the underwriting profit?

**Mr. Nurez Jiwani:** I cannot comment on that.

**Mr. Jagmeet Singh:** In terms of your loss ratio report, last year it came out in late June or early July. Would that apply to this year as well?

**Mr. Nurez Jiwani:** Our report should be coming out in June or July, yes—for 2012.

**Mr. Jagmeet Singh:** For 2012; that's right. You would also agree that using that report would assist us in determining the premiums based on what your website indicates in terms of what that data is useful for, that looking at the report would help us moving forward in terms of reducing premiums or setting premium rates?

**Mr. Nurez Jiwani:** We know that our reports, as I mentioned before—the exhibits that we produce—are used by regulators, are used by the insurance companies. They're used for policy-making, as well.

**Mr. Jagmeet Singh:** Just to understand your data a bit more, would you be able to comment, from what you know—perhaps these insurance regulators that do use your data to set their premiums or to set policies—why do they use your data? Is there a reason that they have provided, or is there a reason that you are aware of why they use your data?

**Mr. Nurez Jiwani:** My understanding is that one of the uses of our data is—when they are reviewing rates that are filed by insurance companies, they use our data.

**Mr. Jagmeet Singh:** And why would they use your data to review the rates filed by companies?

**Mr. Nurez Jiwani:** I don't know exactly what they do with the data, but my understanding is that they use our data.

**Mr. Jagmeet Singh:** Using your data, would it be possible in addition, adding in revenue generated by investment or investment income, to come up with a raw form of profits that each company or the industry in

general—it would provide a way to calculate a profit or a loss for the overall industry in any given jurisdiction.

**Mr. Nurez Jiwani:** With respect to profits, as I mentioned, at the moment, for a number of years, we have been collecting premium and claim data—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you, sir. If you could just hold that thought for a moment, and we'll come back to it. Thank you, Mr. Singh. Mr. Balkissoon.

**Mr. Bas Balkissoon:** Thank you, Madam Chair, and thank you for being here. I have a couple of questions, and maybe my colleagues will jump in also.

I just want to clarify a couple of things. It might sound like it's repetition, but did I hear you clearly outline what type of data you collect? Are they coming from the individual 140 insurance companies?

**Mr. Nurez Jiwani:** The data we collect comes from each of the 140 or so insurance companies.

**Mr. Bas Balkissoon:** Can you give us a breakdown of what's in that data? So far I've just heard you say claims and premiums. That sounds very simple. I'm sure it's a lot more complex than that, so if you could give us a little breakdown.

**Mr. Nurez Jiwani:** They submit data on every policyholder—every insurance company, every policyholder. They submit data on the type of policy, the coverage, the premiums, the claims, the deductibles—a lot of information is filed by each company on each individual policyholder.

**Mr. Bas Balkissoon:** Do they file their administrative and operating costs also?

**Mr. Nurez Jiwani:** No. What we get is the actual premium and actual claims data.

**Mr. Bas Balkissoon:** The claim that you get—would it be just whatever they paid out that specific year? If a claim was to go over five years, because the first year they're dealing with medical, the second year with something else, and maybe the final payout is five years from today, how do you get that data? Is it in five different slots? How do you look at it?

**Mr. Nurez Jiwani:** The insurance company will submit the data on a claim. Then all of that data is processed by our statistical service provider, and we have an independent actuary that does do some actuarial work in terms of expected claims. As we discussed earlier, there could be an accident that happened this year where claims could be paid over five years, so based on previous experience and previous data, our actuary will provide a factor or factors—

**Mr. Bas Balkissoon:** So you'll bring it to the net present value of this current year, what you project it may cost.

**Mr. Nurez Jiwani:** What's projected is the work that's done by our actuary in terms of factoring, and that factor is applied by our statistical service provider.

**Mr. Bas Balkissoon:** Okay. So if the market is changing because policy changed, is your actuary actually taking those policy changes into place? I'll give you an example: This government changed its policy in

2010 in terms of claims and capping. How would that affect what you do?

**Mr. Nurez Jiwani:** The process that the actuary uses—I would not be familiar with that. That's actuarial work.

1520

**Mr. Bas Balkissoon:** Is there a possibility, then, because of that policy change in 2010, that you may not see the real impact of it unless you look at several years' data as we go forward, because you need to gain experience?

**Mr. Nurez Jiwani:** I cannot answer that question.

**Mr. Bas Balkissoon:** You cannot answer that question. Okay.

My colleague, go ahead.

**Mr. Mike Colle:** A lot of questions you won't answer or can't answer, and I'm not saying it's your fault. You're put in a very difficult situation here, because a lot of these are beyond your realm.

Just trying to explain how GISA functions, the insurance providers across Canada need you to do what? Why have they employed you or helped establish GISA? What's your purpose?

**Mr. Nurez Jiwani:** The sole purpose of GISA—and that's why, as you say, there are a number of questions which I cannot answer, because that's not within our role or our mandate. The sole purpose of GISA is, the insurance regulators have appointed us to collect this data, to process the data and report the data. That is the sole purpose of GISA.

**Mr. Mike Colle:** And then they need that data to do what? Why do they need that data?

**Mr. Nurez Jiwani:** As I mentioned before, my understanding is one of the uses they make, the insurance regulators, is when they review the rates that are filed by insurance companies, they use our data.

**Mr. Mike Colle:** In other words, depending on the number of claims made, the amount, that could affect what they charge in terms of premiums and so on. Is that, as a layperson, a good description?

**Mr. Nurez Jiwani:** Again, the process that the individual regulators use I am not familiar with. Even at FSCO, I'm not involved in that part of the work of FSCO. But just from a layman's point of view, the rates would be based on premiums and claims.

**Mr. Mike Colle:** And based on information, right?

**Mr. Nurez Jiwani:** Information—

**Mr. Mike Colle:** And you help gather that information?

**Mr. Nurez Jiwani:** Exactly.

**Mr. Mike Colle:** Did I hear you say that there are over 80 million transactions a year that come through GISA?

**Mr. Nurez Jiwani:** That's correct.

**Mr. Mike Colle:** That's 80 million?

**Mr. Nurez Jiwani:** Yes.

**Mr. Mike Colle:** How do you handle so many claims or so many pieces of data?

**Mr. Nurez Jiwani:** That's why we have retained a statistical service provider that has that expertise. They have the resources, they have the data and system specialists, and in the last five or so years they have actually gone through a renewal of their technology, which we have funded. So we've got the systems and the specialists to process this data.

**Mr. Mike Colle:** So these are like claims—what would be included in these 80 million transactions? I can't imagine there'd be 80 million. Give me an example of the most common transactions that you compile or what's been received.

**Mr. Nurez Jiwani:** Sabitha?

**Ms. Sabitha Kanagasabai:** These are mainly premium claim records, so it will include which company it's coming from, what effective date the policy is, vehicle information in terms of what the vehicle is used for, the operator in terms of male or female, age, group, years licensed, coverage limits, deductibles. It's a pretty extensive amount of information that is collected.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Excuse me, would you please introduce yourself for Hansard?

**Ms. Sabitha Kanagasabai:** I'm Sabitha Kanagasabai. I'm the statistical plan lead with GISA.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much.

**Mr. Mike Colle:** Just one last question here before I pass it on. So, for instance, when you get a violation there, you lose some points as a driver. Would you also see that kind of information passed on to you? Because that has an impact on your premium and can raise your rates if you lose a point.

**Ms. Sabitha Kanagasabai:** There is information around driving records, yet there are—someone can be categorized as 0 to 7, so that information is included.

**Mr. Mike Colle:** Okay, I'll just pass it back to my colleague.

**Mr. Rick Bartolucci:** Thank you for your slide presentation. We'll spend some time reading it.

I don't know a whole lot about insurance statistical data, but I'm realizing that there are two bodies that really do it extensively: you and OSFI. What is the difference between your data, or are they the same? Secondly, how is the data accumulated by you and OSFI?

**Mr. Nurez Jiwani:** I can only speak to our data and how it's accumulated. Our data, as I mentioned before, is raw data that comes on every policyholder, every premium, every claim from every insurance company. We collect all of this information on an ongoing basis. Based on all the data that we collect, we produce these exhibits which are used by regulators and insurance companies. Exactly what OSFI collects and how they process and what they do, I'm not familiar with.

**Mr. Rick Bartolucci:** So you're not familiar with how your data differs from OSFI.

**Mr. Nurez Jiwani:** No.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you, Mr. Jiwani. We'll hold that thought too, and we'll go for our second rotation. Mr. Yurek.

**Mr. Jeff Yurek:** You guys set the data, so your data comes in, you make these charts and you just provide them for other places to use. Is that basically it?

**Mr. Nurez Jiwani:** That's right.

**Mr. Jeff Yurek:** So your data is only as good—I'm saying your data is good, by the way, but its limitation is the amount of data you are receiving.

**Mr. Nurez Jiwani:** We are collecting, processing and reporting, that's right. What we report on is the data that we collect.

**Mr. Jeff Yurek:** So the case from arbitration last month that has been arbitrated and has changed the precedent and cost factor hasn't been accounted for yet because you didn't know about it? The 14,000 cases in mediation or arbitration which have yet to be heard can affect, when they go through a year or two from now, your cost factors that you put up this year and the last year. Is that true?

**Mr. Nurez Jiwani:** Again, I cannot comment on that. Our job is to report on the data that is collected.

**Mr. Jeff Yurek:** Okay, I'm good. Thank you.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Do you have any further questions? No? Thank you very much.

Please, Mr. Singh.

**Mr. Jagmeet Singh:** Do you recall the last question we left off on? I kind of drew a blank. I don't know if you made a note of it. You were about to answer it, but our time ended. Do you recall that question?

**Mr. Nurez Jiwani:** I believe you were asking about profits.

**Mr. Jagmeet Singh:** Right.

**Mr. Nurez Jiwani:** What I was about to say was that the data that we've been collecting is on premiums and claims. Just starting this March, we have started collecting information on profits and expenses. The reports on that data are expected to come out late this summer.

**Mr. Jagmeet Singh:** Okay, so that's a separate report that would be on profits and expenses?

**Mr. Nurez Jiwani:** That's correct.

**Mr. Jagmeet Singh:** Would that be for all previous years or just for one previous year?

**Mr. Nurez Jiwani:** Just for 2012, because that's when we started collecting it.

**Mr. Jagmeet Singh:** For 2012. Okay. That's very interesting. In that, do you take into consideration income or revenue from investment income? Sabitha? Yes?

**Ms. Sabitha Kanagasabai:** Yes, that's part of the information.

**Mr. Jagmeet Singh:** Wonderful. That's great. I'm really looking forward to hearing that, then.

Can you explain to me what a loss ratio is? In GISA's analysis, what would a loss ratio be?

**Ms. Sabitha Kanagasabai:** Let me pull up the—

**Mr. Jagmeet Singh:** In the meantime, I'll give you a scenario. What your data does is that, year by year, if there is a change in the arbitration decisions, if there is anything that occurs, the changes that flow from that will show up in data in the form of claims and premiums. If the claims increase from one year to the next, you will

report that as it increases. So you provide a year-by-year snapshot of what's happening in terms of costs and what's happening in terms of income coming in in terms of each insurance company that operates in the province of Ontario. Is that correct?

1530

**Mr. Nurez Jiwani:** Yes. We report on claims that are actually what's reported to us from insurance companies on claims that they have paid.

**Mr. Jagmeet Singh:** This backlog that has been referred to has existed for a number of years. Each year, whatever data you're provided with, as this backlog of cases in arbitration is being resolved, whatever the data are from that, whatever the costs are, they would be reported to GISA because every cost on the claims side is reported to GISA.

**Mr. Nurez Jiwani:** As claims are incurred, they would be reported to us and they would become part of our data.

**Mr. Jagmeet Singh:** My apologies, I don't remember your last name, so I'll say Sabitha. My apologies for not giving you your proper title. Did you have an answer to that question?

**Ms. Sabitha Kanagasabai:** I actually don't have the document with me. We do have specific definitions for all these terms.

**Mr. Jagmeet Singh:** Would you be able to describe to me what a loss ratio is, just in layman's terms perhaps?

**Mr. Mike Colle:** It's in the definitions, I'm sure.

**Mr. Jagmeet Singh:** Would you be able to just describe it for me, just loosely?

**Ms. Sabitha Kanagasabai:** I may not be the best person.

**Mr. Jagmeet Singh:** Or your colleague, perhaps—what a loss ratio is?

**Mr. Nurez Jiwani:** My understanding is that a loss ratio would be the total claims over the premiums.

**Mr. Jagmeet Singh:** That's what I understood it to be, more or less. Maybe there's more technical language to that, but that's my understanding.

If it's a negative number, that means there has been a loss for that year, and if it's a positive number, there has not been a loss. Am I describing that loosely as correct? Less than—sorry, not a negative number. Less than one would be a loss and above one would be not a loss, I guess. Is that correct?

**Mr. Nurez Jiwani:** That's correct.

**Mr. Jagmeet Singh:** And would you agree that there's been an above-one loss ratio for 2011—the 2011 data?

**Mr. Nurez Jiwani:** We produce a lot of data, so I'm not sure which exact data you're referring to. We produce data for all the provinces.

**Mr. Jagmeet Singh:** For Ontario 2011, what is the loss ratio? A better way to put it: What is the loss ratio for 2011 in Ontario?

**Mr. Nurez Jiwani:** I don't have that information.

**Mr. Jagmeet Singh:** I'm sure you could table that with us.

**Mr. Nurez Jiwani:** Yes.

**Mr. Jagmeet Singh:** Okay.

**Mr. Nurez Jiwani:** It's part of our exhibits. We can provide it.

**Mr. Jagmeet Singh:** Sure. I'm sure we actually have that, anyway.

Going back to—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Singh.

**Mr. Jagmeet Singh:** Sure. Thanks.

**The Chair (Mrs. Donna H. Cansfield):** Mr. Balkissoon?

**Mr. Bas Balkissoon:** Thank you, Madam Chair. I'm going to go back to my previous line of questioning. I want to get back to the claims that could go over an extended period of time. You did say that your actuaries would calculate and forecast what that payout could be on a go-forward basis. Can I assume, then, that your data is raw data with some assumptions in it, because you're actually calculating the go-forward cost?

**Mr. Nurez Jiwani:** Because we're trying to match premiums against claims, our data would include a projection on the claims based on actuarial factors that our independent actuary would provide on future claims.

**Mr. Bas Balkissoon:** So then, I'll go back to what I said. Therefore, your data is not 100% raw data. It's raw data plus.

**Mr. Nurez Jiwani:** It's raw data with actuarial factors applied for expected claims.

**Mr. Bas Balkissoon:** With actuarial projections.

**Mr. Nurez Jiwani:** That's correct.

**Mr. Bas Balkissoon:** Okay. So it is the best guess of your actuaries on what is going to happen to the industry on a go-forward basis. In a change-in-policy environment, that could affect your data significantly. As an example, what this government did in 2010, which has significantly reduced some of the major claims, how many years' experience would you require under this new scenario before your actuaries can, say, project it better, because so far, you've only had one year experience?

**Mr. Nurez Jiwani:** The factors that our actuary calculates and how the actuary does that, that's an expertise that I don't have, so that would be a question for our actuary.

**Mr. Bas Balkissoon:** If I go back to Mr. Singh's question about loss ratio, I want you to clarify again to me so I understand what is loss ratio prior to 2012, because you were not collecting an insurance company's operating and administrative costs. So was it strictly claims against premiums that you're using as a loss ratio calculation—profit-loss ratio calculation?

**Mr. Nurez Jiwani:** That is correct, yes.

**Mr. Bas Balkissoon:** So again, that cannot be 100% accurate in terms of the company's real expenses in that particular sector.

**Mr. Nurez Jiwani:** Yes. Our data is based on the data that is submitted to us on premiums and claims.

**Mr. Bas Balkissoon:** Right.

**Mr. Nurez Jiwani:** As far as operating expenses—

**Mr. Bas Balkissoon:** You don't have that.

**Mr. Nurez Jiwani:** We don't have that.

**Mr. Bas Balkissoon:** Okay. Thank you.

**Mr. Mike Colle:** Again, I just want to clarify: OSFI has a totally different function than your organization, right? I know people keep comparing the two, but essentially they're the financial services superintendent for the federal government, right?

**Mr. Nurez Jiwani:** OSFI is a federal regulator, and their focus is the solvency of companies.

**Mr. Mike Colle:** Whereas you are a not-for-profit company established by the insurance regulators to get data?

**Mr. Nurez Jiwani:** That's correct.

**Mr. Mike Colle:** So there's totally two different mandates, two different functions, because OSFI is basically trying to make sure that the insurance companies are solvent, that they're not overextended, right? So you don't really have any role in looking at the over-extension of insurance companies or their financial liabilities. You're basically providing them with the data, and then it's up to them to determine what they're going to do with that data to keep their business operations going.

**Mr. Nurez Jiwani:** Yes. I think to make the comparison, OSFI is a regulator. It's a solvency regulator. It's a federal regulator. We are simply a collector of data. We collect, process and report on data.

**Mr. Mike Colle:** OSFI's obvious interest is in making sure that these insurance companies are not going to go under and go belly up, which they have in the past, and so it protects the consumer to ensure that if they're going to pay premiums, that company that's taking their premiums is going to be financially solvent—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much.

**Mr. Mike Colle:** I'll hold that thought.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much for your presentation. It was very enlightening.

**Mr. Nurez Jiwani:** You're welcome.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Do you have a business card that we could have, please?

*Interjection.*

**The Vice-Chair (Mrs. Donna H. Cansfield):** A business card. We just need a business card from—do both of you have one for your names?

And if we could have the next delegation, please.

**Mr. Mike Colle:** Thank you very much—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Yes, thank you.

**Mr. Nurez Jiwani:** Thank you.

*Interjection.*

**The Vice-Chair (Mrs. Donna H. Cansfield):** Yes, the whip's here. Off you go. It may be warmer out there.

Here they come. They're running in.

## FINANCIAL SERVICES COMMISSION OF ONTARIO

**The Vice-Chair (Mrs. Donna H. Cansfield):** Our next presenter is the Financial Services Commission of Ontario, FSCO. If I'm correct, it's Darlene Hall, director of the auto insurance services bureau, and Bruce Green, senior manager, rates and classifications.

Thank you very much. You have 10 minutes for your presentations. I'll give you a heads-up at nine, and then we'll start the rotation with Mr. Singh on the 10-minute rotation. Mr. Singh, you'll start? Thank you very much.

Please proceed.

1540

**Ms. Darlene Hall:** Thank you, Madam Chair. I'm pleased to have the opportunity to present today. My name is Darlene Hall. I'm the director of the automobile insurance services branch at the Financial Services Commission of Ontario. With me today is Bruce Green. He's the senior manager of rates and classifications.

The Financial Services Commission of Ontario has been invited here today to make a presentation on taxi insurance. Specifically, the committee has requested to hear from staff that have the expertise in insurance for the taxi industry. As I will outline for you, the Financial Services Commission of Ontario actually has a very limited role in this respect.

The Financial Services Commission of Ontario regulates auto insurance in Ontario, as set out in legislation. The automobile insurance services branch does have a mandate to review the rates filed by auto insurance companies, in accordance with legislation.

Total premiums for all categories of automobile insurance in Ontario were approximately \$12 billion in 2011. Taxi insurance, which also includes insurance on limousines, is a specialty market that was offered through 14 insurance companies in 2011, based on data reported to the General Insurance Statistical Agency.

In 2011, again based on data from the General Insurance Statistical Agency, there was \$58 million in written premiums for taxis, and of that total, \$50 million, or 86%, was classified as fleet.

Insurance companies are required to file rates for individually rated or non-fleet insurance with the Financial Services Commission of Ontario. However, fleet insurance is not subject to rate regulation, and as noted, a substantial proportion of the taxi market is written as fleets.

A fleet is defined as five or more vehicles under common ownership or management and used for commercial or public purposes. In general, fleets are operated by commercial operations, and they're often large purchasers of insurance.

The fleet is a discrete risk exposure whose experience and characteristics can be monitored and rated. The claims experience of the fleet will be affected by the actions of the owner or manager, who has a strong incentive to ensure that risk management programs are in place.

Insurance companies are not required to file the rates with FSCO that they charge for fleets, as it would be impractical to do so. Fleets are rated based on historical claims, experience of the fleet and the claims ratio of the fleet. Each business enters into an agreement with an insurance company that would specifically set out the risk management and loss prevention program that the business has in place, and the rates charged would depend upon the program and claims experience of the fleet.

Due to the nature of the taxi business, there are high claims costs associated with taxi insurance, and this line of business is considered higher risk than other types of auto insurance. Factors contributing to the higher risk of taxi insurance include:

- the number of hours the vehicles are on the road; for example, some vehicles are on the road 24 hours a day;
- the number of drivers using the vehicle;
- drivers who may have poor driving experience; for example, a high number of at-fault accidents and driving convictions;
- drivers who may not be experienced;
- drivers who temporarily use the vehicle rather than the regular licensed driver; and
- additional exposure to claims from the passengers who hire the taxi.

In addition, the taxi market has some unique features where it is subject to municipal licensing processes, and some municipalities have their own requirements. The taxi plate owner may be different than the owner of the taxi, and that person may be different than the actual driver or drivers of the taxi.

In addition to those insurers that offer taxi insurance, insurance is also available through the Facility Association. The purpose of the Facility Association is to ensure that insurance is available to all who require it.

Based on statistics from the general insurance statistical agency, the Facility Association had about \$2.5 million in written premiums in 2011, or about 4% of the Ontario taxi market by written premium. In some other provinces, the Facility Association is the major writer for taxis.

Over the past several years, the taxi insurance market has been relatively stable in Ontario. Some insurers have worked with organized taxi cab groups and associations to provide insurance programs for taxi fleets. These programs have been able to provide additional choices for taxis when it comes to insurance.

We understand that one such program, through the Taxi and Limousine Drivers Association, has been recently terminated in Ontario by the insurer. As a result, some of the taxis previously insured through this program are looking for alternative markets.

We further understand that the insurance industry is currently exploring ways to fill in the gap created by the termination of this program.

As mentioned, FSCO has a limited role with respect to the taxi market, particularly as most of the business is written through fleet programs.

Thank you for the opportunity to present to the committee today, and we look forward to any questions you may have.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much for your presentation. We'll start with Mr. Singh.

**Mr. Jagmeet Singh:** Thank you. Just so I understand the presentation, with respect to the individual—just turning your mind again to the question of insurance for taxis or limousines, there's \$58 million written in premiums and the majority of that, \$50 million of that, was for fleet. I have that correct so far?

**Ms. Darlene Hall:** Yes.

**Mr. Jagmeet Singh:** And the fleet is not something that's regulated by FSCO. Fleet insurance, that's commercial insurance and that's not regulated by FSCO?

**Ms. Darlene Hall:** Yes. So the rates charged on that are not regulated by FSCO.

**Mr. Jagmeet Singh:** And then the other \$8 million, I assume, is regulated by FSCO?

**Ms. Darlene Hall:** Yes.

**Mr. Jagmeet Singh:** Okay. The issue we were concerned about is the Hamilton scenario, where all the drivers in Hamilton have been put into Facility. That's because they're fleet and that fleet was being provided by a company called Arch Insurance, I believe. Arch Insurance is no longer writing, and so that means there is basically no one left to write for that fleet insurance. Your understanding is that there are a lot of jurisdictions where Facility provides the insurance for taxis or limousines?

**Ms. Darlene Hall:** Yes, that's my understanding. I also believe that the program that you mentioned that was insured through Arch, that is, the Taxi and Limousine Drivers Association program, I think they are trying to find another market at this point in time for that.

**Mr. Jagmeet Singh:** Now, I don't know if this makes any sense, and I'm just going to throw it out there, but is there a way for a company to have their drivers insure themselves on an individual basis instead of having them insured under a fleet? Is that an option?

**Ms. Darlene Hall:** I guess, depending on the taxi owner, if it's the taxi owner who's looking for insurance, they could potentially try and just insure their own vehicle themselves as opposed to going through an association or program.

**Mr. Jagmeet Singh:** But if they're working as an employee for a fleet, that wouldn't be an option?

**Ms. Darlene Hall:** I don't believe that would be the case, yes. They would have to follow whatever the fleet—however the fleet decides to insure the vehicle.

**Mr. Jagmeet Singh:** Is there any role that FSCO could play in assisting to get coverage for those folks? Because it affects their livelihood and their ability to get insured. Any sort of solutions that you can think of?

**Ms. Darlene Hall:** I mean, we're open to the fact that if a company wants to and if it needs to file rates with us, obviously we're there in terms of that process, in terms of filing rates. It's really essentially an issue between the

insurance industry and, I guess, the program that's looking for insurance. If there's a way that FSCO could assist, it would, but it needs to be—I mean, it's the market that needs to provide the insurance. We can't force insurance companies to provide that market.

1550

**Mr. Jagmeet Singh:** Sure. Okay. Are you familiar with the statutory accident benefit payouts year by year? Can I ask you some questions about that?

**Ms. Darlene Hall:** I don't have stats in front of me, but you can, sure.

**Mr. Jagmeet Singh:** I'll start broadly and if I get to something too specific, then you can let me know that you don't have that specific number in front of you.

Turning your mind to 2010, before 2010 the climate was completely different in terms of claims and losses. From 2010 onwards, so post-2010, post the reforms or the changes that cut the benefits and changed the way the lay of the land was, would you agree with me that there was a significant drop in terms of costs to insurance companies in the form of claims, that statutory accident benefit payouts dropped by a lot, broadly?

**Ms. Darlene Hall:** I have some familiarity with the GISA statistics, so the accident year results show there was a drop in terms of statutory accident benefits.

**Mr. Jagmeet Singh:** And I understand that in one year, from 2010 to 2011, that was about a 50% drop? It dropped from \$3.92 billion to \$1.96 billion. Do you have something like that that you can back up—basically, it dropped in half?

**Ms. Darlene Hall:** There was a substantial reduction in the accident benefits costs for that one year. I know that.

**Mr. Jagmeet Singh:** And would you be able to approximate that as about a 50% drop, or you don't have that number in front of you?

**Ms. Darlene Hall:** I don't actually have it right in front of me, but I know that in the GISA statistics it would show the actual dollar cost for that accident year for accident benefits.

**Mr. Jagmeet Singh:** Sure. And do you know if there was—I'm looking at one of the decks that was presented by FSCO, and I'm just reviewing it, just to put it on the record. From 2010 to 2011 in the GTA, it looks like the drop was even more significant; it was about 70% in terms of the drop. Would you be able to corroborate that?

**Ms. Darlene Hall:** I don't have the numbers in front of me, but I know that based on what I've seen from the anti-fraud task force report, there was a significant buildup in claims costs pre-reform. So I would expect that drops would have been in the GTA post-reform, but I don't have those numbers in front of me.

**Mr. Jagmeet Singh:** Okay, that's fair. But would you agree generally with the idea that, perhaps because the claims were already higher in the GTA, the drops after 2010 were actually more in the GTA than anywhere else in Ontario? Does that make sense with what you—

**Ms. Darlene Hall:** I would think that that's logical, but I don't have numbers in front of me.

**Mr. Jagmeet Singh:** That's fair. If I wanted to ask you some questions about the premiums coming in and then the claims costs going out, do you have those separate numbers in front of you, if I wanted to ask you questions on that?

**Ms. Darlene Hall:** I guess what I have in front of me is FSCO's submission to the committee, April 15. I don't know if those are the numbers that you might be asking.

**Mr. Jagmeet Singh:** Perhaps. Do you have something along the lines of the premiums coming in in 2011? I have approximately \$10 billion of premiums coming in. Do you have that number?

**Ms. Darlene Hall:** Yes, \$10 billion is accurate.

**Mr. Jagmeet Singh:** Okay. And then payouts in 2011, I get \$6.5 billion. Is that what you have?

**Mr. Bruce Green:** Sorry?

**Mr. Jagmeet Singh:** Benefit payouts of \$6.5 billion for 2011; do you have that number in front of you?

**Ms. Darlene Hall:** Yes, I'm able to confirm the \$6.5 billion.

**Mr. Jagmeet Singh:** Excellent. And other expenses of about \$2.7 billion; do you have that?

**Ms. Darlene Hall:** Is that an estimate or—I'm not sure—

**Mr. Jagmeet Singh:** That's an estimate that I think you should have, if I'm not mistaken. You should have that from GISA or some other form—I'm pretty sure FSCO should have it. If you do or don't, I'm just wondering. You don't have that? Okay.

**Ms. Darlene Hall:** Is it general expenses you're referring to or—

**Mr. Jagmeet Singh:** Yes, other expenses. General expenses, yes.

**Ms. Darlene Hall:** Which is around 25% of premium. Is that—

**Mr. Jagmeet Singh:** That sounds about right. So if it's 25% of premium, the \$2.7 billion sounds—about 25%? It's a bit higher, actually. I've estimated it at maybe 2% higher. Does that make sense, then?

**Ms. Darlene Hall:** Yes.

**Mr. Jagmeet Singh:** Okay. So then underwriting profit, just doing the simple math on that, is \$800 million, if we subtract all that up—you can take my word for it. If we take the \$10 billion in premiums coming in, the \$6.5 billion and the approximately 25%, or \$2.7 billion, of general expenses, I get about \$800 million of underwriting profit. Would you agree with that, generally?

**Ms. Darlene Hall:** Yes, that would seem to correspond to the numbers that you have laid out.

**Mr. Jagmeet Singh:** Okay.

**Ms. Darlene Hall:** And that's on an accident-year—

**Mr. Jagmeet Singh:** On an accident-year basis, yes. And then the KPMG study—this you may not have in front of you, but the KPMG study released said that the net investment income for 2011 in their report was \$1.1 billion. Do you have any information to correspond with that? That's a KPMG report, so you may not have that.

**Ms. Darlene Hall:** I can't really speak to the investment income.

**Mr. Jagmeet Singh:** But if we rely on their report, \$1.1 billion plus \$800 million—that's \$1.9 billion, approximately, of profit, if we rely on the KPMG report. Does that make sense?

**Ms. Darlene Hall:** In terms of looking at profit on an accident-year basis, I think you have to be really careful, because of some of the earlier comments that the claims costs can change. They are very much estimates; the most recent accident year will have even more uncertainty than other accident years, so I think that in terms of profit per se, it's usually done on a basis of financial statements, not accident-year information. I think that in terms of any kind of estimate you come up with, you have to exercise a significant degree of caution, because it's only after claims are ultimately all paid out that you really know what the number is. With accident-year data, that can take quite a while.

**Mr. Jagmeet Singh:** Right. So that's one of the pros or cons to accident year. Some would say that that gives you a more accurate picture year by year, and some would say, as you're saying, that you don't know the exact costs until they come up. But—

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Singh. Mr. Balkissoon? Mr. Colle?

**Mr. Mike Colle:** Yes, I've been holding a few thoughts here. The question I have is, in the public auto jurisdictions, are fleets or taxi associations covered in Facility, or is there a special program they have in the public auto provinces?

**Ms. Darlene Hall:** I'm not familiar with the public auto provinces, other than to say that the Facility Association does not operate in the public auto provinces, as far as I know.

**Mr. Mike Colle:** If we could find out, perhaps, through research, what they do in the public auto jurisdictions for fleet coverage or taxi coverage, I'd like to get that, because we're looking at ways of maybe helping to deal with this situation in a few parts of the province.

Is there any reason why this acute situation happened in Hamilton with the taxis, rather than other parts of the province? What happened in Hamilton was that basically the one company that was providing it walked away.

**Ms. Darlene Hall:** I can't really say, other than that I believe this was through the association's program. If, in fact, the association had a substantial majority of taxis in Hamilton, then you'd have that situation, but I can't really say. I don't know all of the details of all of the taxis in Hamilton and where exactly they were written, but—

**Mr. Mike Colle:** So is it the responsibility of the licence owner to try and obtain fleet insurance? I know that in Toronto, for instance, you have some individuals that own 50 or 100 licences. What do they do in Toronto in that situation?

**Ms. Darlene Hall:** I'm not familiar with all of the various ways the programs have been set up, because it is on a fleet basis, but I know that in certain cases they may have a common manager that tries to ensure that the taxi, the taxi association or the program has appropriate loss

management programs in place, and education programs, so that any of the taxis that are part of that fleet could obtain cheaper insurance because they can demonstrate that they have effective risk management programs in place.

**Mr. Mike Colle:** And in Hamilton, where, as I think someone mentioned, there was a series of third party claims that occurred—in other words, that would be a passenger in the vehicle claiming—

**Mr. Bas Balkissoon:** No, it's another vehicle.

**Mr. Mike Colle:** —another vehicle instead—I'm just wondering, do you know anything about that?

**Ms. Darlene Hall:** Not really, other than that if the persons in the vehicle who have hired the taxi do not have their own insurance, obviously, it would be a claim against the taxi insurance, so I can't really provide too many more details on that.

1600

**Mr. Mike Colle:** And I guess the question is if the person who's filing a claim, who claims to be injured in a taxicab, could then sue not only the cab licence holder, but could also possibly sue the cab driver individually. Do you know anything about that?

**Ms. Darlene Hall:** I can't really expand on that. I wasn't sure that they could sue the person individually. I would have thought it was covered by the taxi insurance policy.

**Mr. Mike Colle:** In terms of Facility, what I'd like to get—and this is one of the good news stories, actually, that never gets told. I know, at one time, back in the turn of the century, I think there were about 200,000 drivers in Facility. Right now, how many drivers are in Facility?

**Ms. Darlene Hall:** I think for private passenger auto, there are fewer than 5,000 vehicles in the Facility, so it's down substantially from 2003.

**Mr. Mike Colle:** And why has this dramatic change taken place? Because in Facility, I remember, people used to complain—remember?—they were paying \$10,000 a year, and everybody was being shoved into Facility and paying huge, huge premiums. So why the continued ability to keep the numbers low in Facility? There's more competition, more product? What's the—

**Ms. Darlene Hall:** Yes, I think the huge size of the Facility was immediately pre-reforms in 2003, and I think since then the market's stabilized, so you have fewer drivers in Facility, so there appears more capacity in the voluntary market, and it's stayed that way.

**Mr. Mike Colle:** And has FSCO ever looked at the whole issue of points? I know that a lot of drivers are saying their rates may be affected by a minor rolling at a stop sign, and they lose a couple of points. Yet they could see losing points if they're driving high speeds or—I think there are points for that. But has there ever been a review of the points system? When's the last time we looked at the points system? Because that impacts your rates dramatically. When's the last time you did a review of the points system and how it affects auto insurance?

**Ms. Darlene Hall:** The points system itself is the responsibility of the Ministry of Transportation. But in

terms of companies, they do have minor convictions, which would include rolling at the stop sign, and they have major and they have serious. So there are various categories of types of convictions that will impact the rates. It's something that, I guess, has been established by the insurance companies. If MTO assigns the same points for one type of conviction as another, they may treat both as minor. But I know they have different categories of convictions in terms of if someone is speeding excessively compared to slightly over the speed limit. I think they've categorized things that way, so they will have distinguished, to a certain extent, based on the severity of the infraction.

**Mr. Mike Colle:** If I could just ask for research to ask MTO, or whoever's responsible, to look at the last time they did a review of the points system and if it's been updated in recent years or has it been the same all these times, and a basic, perhaps, rundown of the points system. That would be helpful, if that's possible. Nothing too elaborate, but just a basic overview just to see where they're at in terms of being up to date and any changes and so forth. Thank you.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Mr. Balkissoon?

**Mr. Bas Balkissoon:** I just want to go back to the—because I'm having difficulty in the taxi industry. What is a fleet? What is a company? What is a dispatcher? Because in the Toronto area, based on my experience, there are independent taxi drivers; there's an Ambassador taxi, which is an individual owner, again; and then there are those who own what you will call five or more plates. Where does the independent owner go, and where does the Ambassador owner go? They're just one taxi, and they hire a dispatch company that they can work through.

**Ms. Darlene Hall:** I'm not sure that I can answer that question because, I guess, from our perspective we have the fleet definition that's set out in regulation, so we're just responsible for that side of things. It may be that someone from the city of Toronto can talk about how—

**Mr. Bas Balkissoon:** No, but if I'm an independent plate owner, I can work with a taxi company, but I would have to find insurance. I'm just one taxi, so I can't go to what you describe as fleet. Where do I go? Do you know?

**Ms. Darlene Hall:** Well, I believe in certain cases, they've joined together through an association, and there could be situations where you have someone who has a plate or has multiple plates and could qualify as a fleet.

**Mr. Bas Balkissoon:** So in comparison, that person cannot go to an insurance company that would provide me, a regular policyholder like myself, who's not a taxi. Do I understand it correctly?

**Mr. Bruce Green:** If I understand your question, sir, you have your fleet, but there are other insurance companies that write commercial stand-alone vehicles—

**Mr. Bas Balkissoon:** So they have to buy a commercial—

**Mr. Bruce Green:** —so there is a market for that.

**Mr. Bas Balkissoon:** Okay.

**Mr. Bruce Green:** The majority of taxis happen to be the fleet business and not individually rated.

**Mr. Bas Balkissoon:** Okay. Since we've got no-fault insurance in the province—and I think this is what the Hamilton taxi company was explaining to us—it's a lot of individual passenger vehicles that they collide with or whatever that the claims are coming from those policyholders. How does that get transferred to the company that is carrying fleet?

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. That will be a question for your next round.

*Interjection.*

**The Vice-Chair (Mrs. Donna H. Cansfield):** It's a great question. Please go ahead.

**Mr. Todd Smith:** Thank you for coming in again today. Our previous guests that we had here from GISA were having some difficulty explaining the differences—before I get to the taxi situation—between the services that they provide at GISA and what OSFI provides. Being FSCO, can you explain to us what the difference is between GISA and OSFI?

**Ms. Darlene Hall:** I think there was some mention that, of course, OSFI is the federal regulator for solvency purposes. They have a number of standards for companies need to make sure that they stay solvent. Insurance companies are required to file annual returns of their financial results with OSFI. They're also required to have a report of the actuary attesting to the claims liabilities that insurance companies provide to OSFI as well, to make sure that the company stays solvent. So they have, obviously, a specific role as a regulator.

GISA itself is an agency that collects statistics on behalf of the superintendents of the various provinces as well as the territories. It's basically a gatherer of data. It collects the statistics, and it produces the exhibits that are then published. It's very much a different function. GISA is not a regulator.

**Mr. Todd Smith:** I think it was described several times that the GISA data is raw data. The OSFI data, when you're determining solvency and the value of a company or the profitability of a company, would it not be more valuable data than GISA data?

**Ms. Darlene Hall:** Yes. For purposes of solvency and assessing the financial results of a company, it is the data that OSFI collects. There is, I think, in the superintendent's report a little bit of discussion about financial results. It is the financial statement data that's collected by OSFI that's relevant for looking at profitability and then OSFI's role on the solvency side as well, in terms of financial statements and capital adequacy and those sorts of things.

**1610**

**Mr. Todd Smith:** Sure. To the Hamilton situation, there was the one company, as we've identified already here this afternoon, that decided that it was going to pull out of the taxi business in Hamilton. Can you explain to me why, in your opinion, a company would pull out of such a deal?

**Ms. Darlene Hall:** I don't know all the specifics of that company. Whether it felt that how it had priced the business was not appropriate, I don't really know. I know it's a US-based company. I don't know all the reasons why it decided to discontinue that program.

**Mr. Todd Smith:** It probably wasn't making money, though. That would be a logical—

**Mr. John O'Toole:** I'd check with OSFI.

**Mr. Todd Smith:** I guess we would have to check with them.

I know the Insurance Bureau of Canada and the Insurance Brokers Association of Ontario met back earlier this winter and discussed this situation, not just in the Hamilton area but also in the greater Toronto area, and the insurers indicated that they had withdrawn from the taxi fleet market for a number of different reasons, but significant fraud was one. High claims costs, an above-average chance of catastrophic losses in the accidents and claims involving the taxi companies—they are on the record as saying that's a reason why.

John O'Toole is with me as well. John, you wanted to follow up on something as well?

**Mr. John O'Toole:** Yes. I'd hate to change topics, dropping in here, but it was mentioned by my colleague on the other side—the Facility. I thought today that every company that sells insurance on the market has to contribute to the Facility group. If they don't take the high-risk, they have to pay a premium. Is that a wrong understanding?

**Ms. Darlene Hall:** I guess the way the Facility Association works, it is an association—

*Interjection.*

**Ms. Darlene Hall:** It's a pooling mechanism. Any premiums of the Facility Association get shared back to the industry, as do any of the claims costs. Facility itself actually has a residual market segment and a risk-sharing pool segment, so the residual market or the high-risk drivers that are charged more. The risk-sharing pool—the consumers that have been seeded to that pool are charged the regular insurance company rates, but for whatever reason the company feels that it's higher risk, and so it will seed to the risk-sharing pool. Then the results, again, of that risk-sharing pool are shared amongst the industry itself.

**Mr. John O'Toole:** I think of insurance—because it's a topic of the budget and the reason you're here, I suppose—as a tax, technically. You have to have people to provide those services or those risk contracts or whatever, and that's because it's actually mandatory. You can't drive without it, so it's mandatory. Government is stuck with the problem of keeping it affordable, accessible and enforceable.

When you look at it, now you see that the market itself is broken. The symptoms are there. When you look at—you reduced SABS, the accident benefits schedule—we have the highest in Canada, I think. You go to tort immediately, meaning it drives the cost up to the consumer. Really, they have to have a lot of money to pursue a suit. Is there anything you could add to my lack of under-

standing of that marketplace? Because it really is important.

First of all, you can't work without it; basically, you need to get there. Usually, in my part of the country and on Mr. Smith's side, transit isn't exactly the answer to everything—it's important—so you have to drive. And if you—it's unaffordable, as we see—not just a taxi; I hear it from lots of people. What can you tell me to help me weather through this debate on keeping it an affordable, accessible tax—not tax; insurance premiums. It's a tax. By any measure, it's a tax.

**Ms. Darlene Hall:** I think when the superintendent of FSCO was here he talked about the fact that you need to look at the underlying cost-drivers to really get at how to deal with the system, but I know that a lot of work has gone in on the anti-fraud side to address the fundamentals of the system there—

**Mr. John O'Toole:** Okay. Look, that's a market condition. Fraud is one of the symptoms of a failed system—it can't even enforce. The insurance companies, on their side, I'm told, rather than go to court and the long, expensive and tangled process and resources, just pay these claims that are \$5,000 or \$10,000 to get rid of them. Is that true or is that another misconception I have?

**Ms. Darlene Hall:** Well, I don't know, Bruce, if you want to mention the attestation from insurance companies, but we did ask companies to look at their claims practices.

**Mr. Bruce Green:** Largely, we were looking to have insurers attest to the fact that they were conducting appropriate diligence on the management of their claims, and taking appropriate stances on fraudulent claims, all the while ensuring that legitimate claimants were treated properly. So there has actually been quite a bit of attention on the FSCO side as well as the industry side to look at opportunities to jointly combat fraud. That's one of them.

**Mr. John O'Toole:** I'll just hand it back here. Just one last thing: How, in your best opinion, can they actually give us a 15% cut? I mean, I don't see it, personally. It's a risk product. I'm not pro one way or the other, but we're going to lose it on the benefit side and flip it into the court side as far as I can tell.

**Ms. Darlene Hall:** I mean, I guess I can't really specifically comment on it. I'm more the regulator, not the policy-maker.

**Mr. John O'Toole:** You're doing a very good job today. I've enjoyed your comments.

**Mr. Todd Smith:** Thank you.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. We'll start with the five-minute rotation.

**Mr. Jagmeet Singh:** Okay. So have you heard, in terms of—there's a study on the ROE, return on equity. Have you received the study yet, or have you reviewed it?

**Ms. Darlene Hall:** That has not been finalized, the ROE study, so it's still ongoing.

**Mr. Jagmeet Singh:** Sure. The minister has suggested a 25% reduction to the ROE. Are you familiar with that suggestion that he made in question period?

**Ms. Darlene Hall:** I believe I heard something to that effect.

**Mr. Jagmeet Singh:** Okay. So that's maybe something like a reduction from 12% that it's at right now, to 9%. Is that what you've heard?

**Ms. Darlene Hall:** Well, 25% of 12% is 3%, so you would get the 9% if that's—

**Mr. Jagmeet Singh:** You did the math right on the spot; that's great, I love it.

Does FSCO have any input with respect to that ROE at this point?

**Ms. Darlene Hall:** Not really. I mean, FSCO had retained consultants to look at the issue of the ROE benchmarks, so that study hasn't been finalized.

**Mr. Jagmeet Singh:** Any idea when that will be released?

**Ms. Darlene Hall:** I'm not certain. I think we are trying to aim for the consultants to finalize their review this spring.

**Mr. Jagmeet Singh:** Are you aware of, or do you have a sense of, how much savings the anti-fraud measures in schedule 8 of the new budget bill—how much the savings would be? I'm estimating \$200 million to \$300 million. Is there any sense of how much that is going to result in savings for the industry?

**Ms. Darlene Hall:** I don't have that information.

**Mr. Jagmeet Singh:** Okay. This is a question about premium reduction. So you know, there's a 15% reduction on the horizon that I'd like to see happen for the people of Ontario. Can you answer this question for me: Isn't it true that the premium reductions only impact the individual companies when the policyholders renew in the year after the rate reduction? Is that correct?

**Ms. Darlene Hall:** I'm not sure how—I believe a regulation would be needed in terms of taking further action, so I'm not sure how that regulation will be put together. I mean, normally policies don't all renew on a specific day; it's over the course of a year.

**Mr. Jagmeet Singh:** Right, so if that was the model—that's what I'm suggesting—each individual company would only have to reduce their rates, whatever their percentage is, to get to the average of 15%. They would only have to do that per person as their policy comes to renewal, so it wouldn't impact companies right away; it would impact them in a staggered way over a year's time if it was that model, would you agree with that?

**Ms. Darlene Hall:** If it was that model—I mean, that's how the current system works. Policies come up for renewal and new rates apply on the regular renewal date of a policy.

**Mr. Jagmeet Singh:** So in a way, insurance companies would then not really see a loss or a reduction in their profits if they're being asked to have a 15% reduction overall on average. It wouldn't result in a loss to that company. They wouldn't feel it right away; they would feel it stretched out over a year's time, and the full impact wouldn't be realized till the end of the fiscal year.

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**Ms. Darlene Hall:** Yes, I think the FSCO submission actually talks a little bit about how policies come up for

renewal and are repriced. So it would be over the period that those policies come up for renewal.

**Mr. Jagmeet Singh:** That helps.

How much time do I have?

**The Vice-Chair (Mrs. Donna H. Cansfield):** A minute.

**Mr. Jagmeet Singh:** Okay. Turning back to the issue with the fleet insurance, with the personal insurance, is there any way for people to switch from a fleet insurance system to an individualized system, and can FSCO help people do that—individual commercial as opposed to fleet commercial?

**Ms. Darlene Hall:** Companies have filed individual rates for taxis. So if a person has one taxi, they can go to a company and try to obtain insurance on an individual basis, if that's your question.

**Mr. Jagmeet Singh:** Okay. I think that's my time.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Great. Thank you very much.

**Mr. Bas Balkissoon:** I'll go back to my previous question, because I'm having difficulty understanding the Hamilton situation. I'll tell you what I understand from the folks who were here last week. This was a taxi company. He said that when they get into an accident, their drivers are not making the claim, not their passengers, and they fix their own vehicles in most of the cases without going through their insurance policy. They're not getting the insurance because of third party claims, so I'm understanding that to be another vehicle that is probably in the single-passenger or single-owner vehicle and not in fleet. How does that claim get transferred to this particular insurance company that has walked away under the no-fault insurance program?

**Mr. Bruce Green:** I'll take a stab at it. In any given accident, you've got the obvious claims for first party injuries within the vehicle itself and physical damage to the vehicle. Third party claims could be damage to third party persons or property, caused by that insured vehicle impacting them. In the end, when a company is looking at the losses for a particular fleet coverage, you're looking at the total losses. It doesn't matter so much whether they're driven by physical damage claims or by third-party liability claims. The only difference in a no-fault regime is the ability to sue for those third party damages only kicks in in certain circumstances. That's when you've crossed the threshold and there are catastrophic claims.

**Mr. Bas Balkissoon:** So if the third party had medical claims and whatever—that's transferred?

**Mr. Bruce Green:** It's a different kind of claim more than it is a transfer. "No fault" largely means if you and I are involved in an accident, you go to your insurance company for indemnification and I approach my own. It's supposed to get benefits flowing faster so our companies don't have to debate who's at fault for the accident. "Third party" is when I'm liable for damage I've caused to a third party, person or property, as a result of my operation of the vehicle. It's simply another type of claim.

**Mr. Bas Balkissoon:** But this particular taxi company was saying that they had no access to the number of claims, the value of the claims or anything else so that they could do anything to help themselves.

**Mr. Bruce Green:** Again, I can't speak to those circumstances, except we've spoken a lot about fleet rating today, and one of the advantages to fleets—if you've got a significant number of vehicles that share the risk, the owner of that fleet is spreading the risk out amongst all the drivers and all the vehicles. When you get into a commercially rated individual driver policy, you've got nowhere to spread the risk. From a premium perspective, it's driven by losses, whether those loss amounts materialize in some manner other than third party liability claims—I don't know the specifics of that situation, but—

**Mr. Bas Balkissoon:** But this company, which I think was called Arch Insurance, which I heard you say was an American company, do they have to file any information with FSCO—that you would have any idea of what was happening out there in the marketplace over the years?

**Mr. Bruce Green:** I can suggest to you that if the particular circumstances that were happening in Hamilton were fleet-rated, they wouldn't have been required to file with us.

**Mr. Bas Balkissoon:** Okay.

**Mr. Bruce Green:** But Arch does have commercially filed rates in Ontario as well.

**Mr. Bas Balkissoon:** Okay. Thank you very much, Madam Chair.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, Mr. Green and Ms. Hall, for your presentation. We appreciate it.

#### ONTARIO TAXI WORKERS UNION

**The Vice-Chair (Mrs. Donna H. Cansfield):** Our last presenter is Mr. Ejaz Butt, the president of the Ontario Taxi Workers Union, but for this rotation we're simply 10 minutes each.

**Mr. Jagmeet Singh:** Questions?

**The Vice-Chair (Mrs. Donna H. Cansfield):** Yes, the rotation for questions: 10 minutes each.

Sir, you have 10 minutes for your presentation. I'll give you a heads-up at nine. If you would please state your name and your organization for Hansard.

**Mr. Ejaz Butt:** Honourable Chair and respected committee members, first I would like to thank all of you for providing me the opportunity to speak about the ridiculous hike in taxi insurance. I'm also very thankful to both MPPs, Monique Taylor and Paul Miller, who actually worked hard to bring me here to speak to you guys.

Prior to the issue I talk about, I would like to introduce myself. My name is Ejaz Butt. Presently, I am serving 1,200 taxi drivers voluntarily in Hamilton as the president of OTWU. OTWU is the Ontario Taxi Workers Union, which was established in January 2010 in both companies, Blue Line and Hamilton Cab.

Presently, we, with our strong ally USW, are at the bargaining table with both our companies and I am fully confident that very soon we will come to some conclusion of our collective agreement with both companies, which will eventually resolve most of the issues which I mention in my speech.

Before I go to the issues, I just want all of you to understand how the taxi industry works in Hamilton. It has two main factors. One is the administration and the ownership, and the second one is the operating cost.

In administration, the first thing is the province, which legislates the insurance laws; then the city, which issues the taxi plates at the ratio of 1,100 persons per plate and also legislates the taxi bylaws.

Now, the brokers: Their job is to provide fair dispatch equally to all the drivers. Then there are the multiple-owners. This is the question which you asked about how the taxi industry is working.

Multiple-owners are the investors who buy the taxi plates on the black market with any price, which actually raises the price of the lease on the taxi, and those prices are very fake.

Then it comes to multiple-leasers, who pay a high price for the lease of a plate to have more control over the plates and the drivers, and this creates a fake shortage of taxi plates and makes it more difficult and miserable for the single individual who wants to operate a single plate.

The next step is the single owner, single leaser. Once it is monopolized by the multiple-owners and the multiple-leasers, then the single owners and the single leasers have a high price to run their cars.

The last factor is the driver, which is me, myself, the frontman, the one who is the affected person. Because of all these prices—which I'm going to state in the operating costs—it has become very hard for the drivers to earn a reasonable income, and they are under stress. Even the day before yesterday, a driver with a passenger was hit by a train because the person was under stress; he was hustling.

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So, since I'm in this business more than 30 years—you will compare the cost between what was happening in the 1980s and 1990s up to 2000, and after 2000 to 2013. I will take this 2013, where the total cost would be—the price of the car is \$6,000; lease is \$15,000; dispatch fee is \$6,000; insurance is \$18,000 to \$20,000; repairs are \$5,000; administration and other miscellaneous expenses are \$3,000; and to cover these expenses you have to spend almost \$9,000 in gas, which comes to \$63,000. This is the operating cost. A driver who works 365 days, seven days a week, for 24 hours, his cost is \$172, and in the first shift he has to make, for a 12-hour shift, \$86. And the same thing—some of the drivers are driving for six days. Their daily cost, for 24 hours, is \$210 per day, and six days is \$105. So the net income and the gross income—well, what a driver is making nowadays is hardly crossing \$150 in a 12-hour shift. You are sitting there for 12 hours and you go home with a

gross income of \$150. So now if the cost—you see, if the cost per shift is almost \$86 out of \$150, how much money he is taking home. If he's driving for six days, the cost is \$105, and he's taking home \$45 per day—that is 12 hours. You are talking about almost close to \$3-point-something per hour that he's making.

But if you go to the 1980s and 1990s, the total cost, which was \$18,400.80—insurance was \$2,800. And if you were having more tickets or you got involved in a taxi accident, it was the individual who got involved in the accident—his insurance goes up to the Facility. It was not affecting the rest of the industry. So at that very time a driver's net income was almost \$125 a day after taking out all the expenses, and the dollar value was more at that time as compared to today.

The other thing is, since this hike in insurance and other expenses, drivers are working longer hours. They are working under stress. They don't have the time to keep themselves physically fit and they are becoming sick. Some of them are getting heart attacks. Some of them are becoming diabetic. So if the person is working 84 hours and taking \$300 to \$400 in a week—he has to pay his mortgage, his clothing, his children's clothing, and with \$1,300 or \$1,400 you cannot run your family effectively.

So the problem—and it is becoming a safety issue. As I already mentioned, two days before, a driver got into an accident with a train. Luckily the train hit on the trunk part of it and the customer and the driver both were safe, but the driver was hustling because he was already on the job more than 12 hours and he couldn't make the expenses. He had to pay his owner for all those things.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Mr. Butt, you have one minute left, sir.

**Mr. Ejaz Butt:** My concern is that the rest of Canada—for example, BC, Manitoba, Saskatchewan—has taxi insurance. What legislation makes Ontario so different that the insurance companies do not want to take risks in Ontario? Definitely multiple leasing and fleet insurance is the problem. Because they can't find drivers, they put unlicensed drivers on it and they put uninsured drivers on it. That's how they are running the fleet. So if the system is working for one driver, I don't think there will be many claims on that, and the insurance should go down. I think we have the example of Manitoba, British Columbia and Saskatchewan.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, sir. That was an excellent presentation. We'll start with Mr. Balkissoon.

**Mr. Bas Balkissoon:** Thank you, Madam Chair, and thank you, Mr. Butt, for being here. I hate to say it to you, but I think you're in the wrong place. I came from the municipal world, where we actually issued a taxi licence plate, and leasing has been a problem. It was never supposed to exist. If your municipality embraced it and it has become a disaster, you have to go back to the municipality. I can tell you that it's a disaster in Toronto, where I was, and I suspect Hamilton is the same.

When you talk about multiple-leasing and two or three middlemen, you've got a bigger disaster than Toronto.

The provincial government is not involved in issuing those licences; it's the municipality. The bylaws for the taxi industry are the municipality's. Unless you have a specific idea for us that you could give me, I will tell you that the problem rests with the municipalities.

**Mr. Ejaz Butt:** I agree with you that it's the municipality. That's why we formed a union over there to fight with the city about those lease things. All the other factors, which I've already mentioned—we are at the bargaining table and we are discussing those rates and everything. We are also dealing with the city. The city is getting complete information. Even today all the councillors know that I'm here to discuss insurance.

When you talk about fleet insurance, the person who leases about 60 or 70 plates knows that the insurance is going up. The insurance broker calls him: "You better cancel your insurance right now and pay \$800 extra and renew your plates at the exact same price." His insurance is renewed up to November, so he is safe until November.

Who did it? It is from the insurance company. It is the people who were sitting on the insurance. But the rest of the individuals who did not have any connections paid \$20,000, \$18,000 insurance—individuals. The problem of why there are more claims coming from Hamilton—that is the reason, because the drivers are not making enough money. Probably they'll get into an accident—you see, there are many drivers who are not even insured and they are driving the cars.

**Mr. Bas Balkissoon:** Okay. Mr. Bartolucci?

**Mr. Rick Bartolucci:** Just following up on your last statement, how many companies are offering insurance to your drivers? Do you have a few, several, one, many?

**Mr. Ejaz Butt:** Well, there was only one at the time, which was H and S. That was the broker. I remember the day we founded the union and if a driver who voted for the union went there—because the company knew that they were the union people—he refused. He said, "No. You are not going to get it." If they have a connection with each other, they know; that is why they help them out in the present crisis, telling them, "Okay, pay \$800 extra for each car and renew your insurance at the same rate." But the others were going for \$20,000 and their insurance was the same—\$8,000 or \$9,000. But he's covered until November. So the lease has gone up for the drivers from \$375 to \$450, and the drivers said, "Now what? Where are we going to make all this kind of money?" So the problem there is, insurance is one of the costs—this insurance increased \$75 more, toward the drivers, per week. So you can see how most of this—\$300, \$400—is going toward to the one driver to pay, which was his income.

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Today I am here just to talk about this insurance thing, that I think you should have a public insurance, like every individual should have their own insurance, and if I make a fault, my insurance would go up. It should not affect the other people, right? Same thing, whatever is happening in Manitoba, British Columbia and Saskatchewan.

ewan—their insurance is cheaper. Their drivers are happy; they're working. There are less claims.

I tell you, if the driver makes the money, even if he gets into the hardest accident, he will still prefer to work. Right now, if they can't make enough money, then they say, "Okay. It's better to get \$400 from the insurance company and make a claim." So you are not going to stop. Plus, the people who are their physiotherapists, on every car they are sitting there advertising, "You got into an accident? Oh, come on. You fall down, you come to us. We are going to help." All those factors, if you combine with the—so these insurances will definitely go up.

**Mr. Rick Bartolucci:** Okay.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Any additional questions? Thank you very much.

Mr. Todd?

**Mr. Todd Smith:** Thank you for coming in, Mr. Butt. As the president of the Ontario Taxi Workers Union—I can tell you that, from your statements made here today, not a lot of people are going to be rushing out and being in a hurry to work for a taxi company. It doesn't sound like they're making a lot of money, and it sounds like their lifestyle is not the greatest either, with health implications and the stress that they're involved in.

But I think the question that you asked right at the end of your presentation is the million-dollar question here. The question that you stated was, what makes Ontario so different compared to the other provinces that are out there? I can tell you, in conversation with the insurance companies that are out there, they're simply unable to insure because they're not making any money.

You stated earlier that the premiums have gone from what to where they are now—\$18,000 to \$20,000? What was the low point?

**Mr. Ejaz Butt:** It's \$6,000.

**Mr. Todd Smith:** It's \$6,000. So they've virtually tripled in the last numbers of years, yet no one is underwriting, or very few are underwriting, taxi companies. There has to be a reason for that. If they've tripled their rates over the last number of years, why would they then decide to get out of the game, even after tripling—

**Mr. Ejaz Butt:** Well, this is—I do not understand why Hamilton was chosen up for this purpose, because they don't want to give the insurance to the Hamilton taxi companies. From my point of view, since the union came in—I think that's the reason that the cost goes up and finally the drivers quit.

They are playing a lot of games over there, which I don't want to mention here because I just want to talk about the insurance rates—

**Mr. Todd Smith:** That's what I'm asking about, the insurance rates. That's what we're focused on here today: insurance rates.

**Mr. Ejaz Butt:** I don't know whether they are making the money or not—

**Mr. Todd Smith:** But if they were making money, would there not be more that were willing to underwrite taxi fleets?

**Mr. Ejaz Butt:** I have no idea about—all I know is that they are running the taxi business. I've met the drivers over there, and they were saying that they are making good money, and "Our insurance is cheap," but nobody said to me that the insurance is not making any money off of them. But they are all happy. I didn't find a single driver who was saying "We are in trouble," or in some kind of trouble.

The last time I was in California, I met all the drivers. Wherever I go, I meet with taxi drivers. But the thing is, in the rest the world, things are getting better. Why is Ontario so different? Why specifically is Hamilton being discriminated against by the other cities and by the other provinces? My interest is, make it public insurance. If I do something wrong, my insurance should go up. Now, within the fleet insurance what is happening is they can't find the drivers, and I'm worried about it. When the province is going to convert all these taxis into accessible taxis and when they have to deal with disabled people, and the same driver who's working under stress, who's sick—how is he going to react at that time? There will be more problems when we come again.

If we don't resolve this issue right now, I don't think that in the long run you will ever find a driver in Hamilton to drive the taxis. I tell you, if I would not have been here—I have already arranged one demonstration in the city of Hamilton. The other was planning to come right up to Queen's Park. The drivers are completely ready to come to Queen's Park and make a demonstration. I told them, "No. I'm going there to speak to them. Let them do some work on it so that the insurance comes down." Our mission is to talk with the committee and make sure that you help us out, to bring the insurance down so the driver can make a little better money. That will kill this problem once and for all, because it is going to come and come again. So make some kind of legislation where there is some kind of restriction.

I have given you the details so that you know how our taxi industry is working. Especially fleet insurance, that's the main problem. That is the claim. You will not find more individual claims as compared to those who are working in the fleet insurance. They are the ones who cause the—if their insurance goes up, they push everybody in. I didn't do anything. Why should my insurance go up to \$20,000? I don't have any accidents, no record. The insurance would say, "Okay, you have to pay \$18,000." Why should I if I did not make any claim, if my track record is clean?

These things, because a competition started going on to have the multiple-leasing and multiple-owners—those are the main problems that are affecting our insurance.

**Mr. Todd Smith:** As we've heard through our hearings and our study on auto insurance, the third party liability coverage is a big reason, and the claims from third parties are a big reason, why the rates have gone up. I'm just curious as to how much liability coverage the average taxi carries.

**Mr. Ejaz Butt:** It's \$2 million.

**Mr. Todd Smith:** It's \$2 million. Has that gone up?

**Mr. Ejaz Butt:** That was what I think—initially, it was \$5 million, then we fought with the city and we did a demonstration, and then they brought it up to \$2 million. Right now, I think in other provinces there is \$1 million. Here, it is \$2 million.

**Mr. Todd Smith:** Did you mean \$500,000 or \$5 million? You said it went from \$5 million to \$2 million.

**Mr. Ejaz Butt:** They suggested it should be \$5 million—

**Mr. Todd Smith:** Oh, I see.

**Mr. Ejaz Butt:** —but it was brought to \$2 million.

**Mr. Todd Smith:** From?

**Mr. Ejaz Butt:** From \$5 million to \$2 million.

**Mr. Todd Smith:** Yes, but what was the liability prior to—

**Mr. Ejaz Butt:** Right now, \$2 million is the liability.

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**Mr. Todd Smith:** Right.

**The Vice-Chair (Mrs. Donna H. Cansfield):** What was it before?

**Mr. Todd Smith:** What was it before is what I'm asking.

**Mr. Ejaz Butt:** It was suggested but it was not implemented, the \$5 million. It was \$2 million, because nobody was giving us \$5 million. It was a very high rate.

**Mr. Todd Smith:** We probably only have a minute left or so?

**The Vice-Chair (Mrs. Donna H. Cansfield):** A minute and a half.

**Mr. Todd Smith:** A minute and a half. In your opinion, what do you think would help insurers more readily cover cabs and taxis? That's the big problem, that the companies just aren't willing to underwrite taxi cabs right now. In your opinion, what do you think needs to happen?

**Mr. Ejaz Butt:** I think that public insurance should be introduced. It would be on an individual-to-individual basis, because that would change a lot of things. In the 1980s and 1990s it was public insurance. If somebody got into an accident, then his insurance went up, but if you have a fleet, that fleet's insurance goes up. It does not affect the individuals. Right now, what is happening is that if the fleet insurance goes up, the individual insurance goes up. The best way is that every individual has public insurance. If not, then follow Manitoba and British Columbia and move on.

**Mr. Todd Smith:** We'll move on, too. I don't think that's the answer, though.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much, sir. We will go to Mr. Singh.

**Mr. Jagmeet Singh:** Mr. Butt, thank you so much for joining us today. I appreciate your presentation and sharing your story with us. It has come to our attention that the situation in Hamilton is very, very dire, with the drivers having seen a significant increase in their rates from last year to this year, and drivers who have absolutely clean records—no claims, no tickets; they're safe drivers—seeing their rates go up so high all of a sudden. Part of the reason, you've mentioned, is the fleet insurance issue. Some of the solution might be on the

municipal side of it, but it's important that you came here to share with us the problem with the insurance side, because insurance is regulated by the province.

I agree with you that there needs to be something done to bring the rates down, and I think we have to look at—initially, we looked at residential insurance only—not residential, but the insurance rates of individual personal insurance, but I think we also need to look at commercial vehicle insurance, which is also quite high.

You shared a lot of details. Just to give me another picture of the situation, in your opinion, if this doesn't get fixed, if this is not solved, in your personal experience, given the 1,200 taxi drivers you represent, how likely is it that they'll continue to be taxi drivers? And what will happen to the industry in Hamilton?

**Mr. Ejaz Butt:** Well, the thing is that those who are taxi drivers will keep on driving the taxis, but they will be under stress. Chances are there will be more claims; there will be more accidents and the safety of the public will be at stake.

**Mr. Jagmeet Singh:** Okay.

**Mr. Ejaz Butt:** The result would be more claims, and more insurance goes up.

**Mr. Jagmeet Singh:** My understanding is that the rates are so high now that many people would not continue to be taxi drivers. Because the rates are so high, they would have to go somewhere else, because you're not able to earn a livelihood anymore if the rates are going to be so high.

**Mr. Ejaz Butt:** Yes. Some of them have gone to welfare.

**Mr. Jagmeet Singh:** Okay.

**Mr. Ejaz Butt:** It's already, I think, almost 15 or 16 drivers I've seen who have gone onto welfare.

**Mr. Jagmeet Singh:** Because they can't afford to pay their bills, they can't afford to—

**Mr. Ejaz Butt:** They cannot afford the bills. What they do is they slowly and steadily move toward the welfare system, plus they are going to work part-time. One driver, he went on welfare, but he also said he's going to work only three days.

**Mr. Jagmeet Singh:** Okay.

**Mr. Ejaz Butt:** So they have the alternative to go on welfare. It's the government's money. They take it easy and drive a cab too. They have to make some money somehow, somewhere. If they can't make money in 12 hours of work—and it's long hours; you can't have a social life, you can't have time for physical. In the 1980s and 1990s, I was spending two hours on physical fitness. Now, I don't even have a single minute to go for exercise, which made me a heart patient, which made me a diabetic.

**Mr. Jagmeet Singh:** In your experience with the rates, what's the increase? How much are they increasing from year to year, from last year to this year? How much have the insurance rates increased?

**Mr. Ejaz Butt:** Well, you can see the \$6,000 to \$18,000, and one of the drivers paid \$20,000.

**Mr. Jagmeet Singh:** Is that across the board? Is that with everybody or are there any exceptions?

**Mr. Ejaz Butt:** That is across the board. That is why I came here because all those people were after me and asking me, "What are you doing about the insurance issue?" I said, "Well, you know, I'm trying my best in a way that I can take your message to the province and tell them what your concerns are."

That's why I am here. This insurance hike—you know, they were paying about \$360 or \$375 or something, now they have gone to \$450. So it was even difficult for them at that time. Look at the gas price, where it is—the other costs, if you look into it.

Those are the problems which we are going to fix during the bargaining. We have USW good expertise with us; we have an alliance with them. We are sitting with them on how we can work on the lease system, how we can work on the dispatch system. All those things are not the province's problem; that is not the city's problem. This is a problem between us and the owners and the brokers. Once we get a collective agreement, those problems will be solved.

The only problem that's left is the insurance, which is in your hands. You are the ones who can legislate and bring this insurance down so that at least the drivers in Hamilton should have a little bit more money to feed their family.

**Mr. Jagmeet Singh:** Sure.

**Mr. Ejaz Butt:** Right now they're spending a miserable, downtrodden life.

**Mr. Jagmeet Singh:** Thank you so much. Thank you for sharing your story with us. I appreciate it. I have no further questions, thank you.

**Mr. Ejaz Butt:** No problem.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Do you have any further questions?

Thank you very much, Mr. Butt, for your presentation. I appreciate it.

**Mr. Ejaz Butt:** Thank you.

#### COMMITTEE BUSINESS

**The Vice-Chair (Mrs. Donna H. Cansfield):** We just have a little bit of business to do.

**Mr. Bas Balkissoon:** Do you want me to take the chair?

**The Vice-Chair (Mrs. Donna H. Cansfield):** You can take the chair.

*Interjections.*

**The Chair (Mr. Bas Balkissoon):** It's probably warmer in this chair.

Okay, members of the committee, we had sent a request to do transportation issues next week when the House is recessed, requesting two days of travel. I believe we discussed Durham, Mississauga and Hamilton. It's been granted, but to make the arrangements for next week, it has to be done quickly.

**Mr. Todd Smith:** This is for the gridlock study.

**The Chair (Mr. Bas Balkissoon):** The gridlock stuff, yes. We've got to pick the dates and where; and who do you want to hear from?

**Mrs. Donna H. Cansfield:** Can I ask a couple of logistical questions?

**The Chair (Mr. Bas Balkissoon):** Sure.

**Mrs. Donna H. Cansfield:** So we're looking to go to three places next—

**The Chair (Mr. Bas Balkissoon):** No, we suggested three but I think we only actually have two days of travel; right?

**Mrs. Donna H. Cansfield:** Two days of travel. Well, Mississauga and Hamilton, you could do in—anyway, it doesn't make any difference, Chair. It's logistics. So let's say it's only two. You have to do a certain amount of advertising to get the people to come out, that's the first thing.

**The Chair (Mr. Bas Balkissoon):** Exactly.

**Mrs. Donna H. Cansfield:** And we have a very short window with which to do that.

**The Chair (Mr. Bas Balkissoon):** Four days, because remember, Monday is a holiday.

**Mrs. Donna H. Cansfield:** That's right. The other is, who is our audience? Who do you want to talk to? Are you talking to the municipalities? Are you talking to individuals? Are you talking to associations? Do you want to talk to chambers of commerce? Do you want to speak to business associations? There should have been some work done by the subcommittee on this whole process around what is it we actually wanted to accomplish by going somewhere for two days, much less how to accomplish. I just don't know how you're going to do it, quite frankly.

**1700**

**The Chair (Mr. Bas Balkissoon):** I think the same issue was raised at subcommittee, and the subcommittee members who were present at the meeting are not here. Mr. O'Toole; I'm trying to remember who was—

**Mr. Todd Smith:** Mr. Marchese?

**The Chair (Mr. Bas Balkissoon):** That's right. Rosario was sitting in for the third party, and Mr. Colle.

*Interjection.*

**The Chair (Mr. Bas Balkissoon):** I'll be honest with you. As the Chair, I'm only available two days: Tuesday and Wednesday. That's it.

**Mr. Todd Smith:** I know Mr. O'Toole is anxious for the committee to meet in Durham.

*Interjection.*

**Mr. Todd Smith:** Not next week?

*Interjection.*

**Mr. Todd Smith:** I thought he was. Shall we take a pause in the action as well?

**Mrs. Donna H. Cansfield:** If I may, I don't have any problem going out and meeting in Durham, to be fair. I have no problem meeting in Mississauga or wherever. I would just like to know about what and who, or who we'd like to invite. Even if you send out an email to an association, they have to get back to you; you have to find a venue. There are a whole lot of logistics to this.

I just wondered whether or not, if we started now, we could look to something more worthwhile in June, when the House rises, and do something. Or I'm even prepared to take part of my Friday and do a Friday morning and go out to Durham, just so that we really make it worth our while and not end up in a situation where nobody comes

because they haven't had sufficient time with which to do it.

**The Chair (Mr. Bas Balkissoon):** Well, you're the committee. We could either go next week or we can go in June. Mr. Singh?

**Mr. Jagmeet Singh:** I think there's a competing interest. I agree with Ms. Cansfield that we have to make it worth our while and make sure that people actually show up, so people should be given notification.

At the same time, there is a bit of a time limit. I think we want to get some of this work done as soon as possible. I guess we could maybe get the Clerk's input. Are there folks that we'd be able to get lined up for next week? Are there associations that have indicated interest previously, that we know about, that could talk about this gridlock issue in those different regions? If we have a sense that there are people out there and that they're ready and we can get them on a moment's notice—there's still about a week's time. I'm sure we could figure it out. I agree that we need to know that there's going to be people ready for us.

**The Clerk of the Committee (Ms. Sylwia Przedz- siecki):** I would have to get back to you. I don't know that we have a waiting list—

**The Chair (Mr. Bas Balkissoon):** As far as I know, at subcommittee we did not have a list. Mr. Colle might be able to remember.

*Interjection.*

**The Chair (Mr. Bas Balkissoon):** We didn't.

**Mr. Jagmeet Singh:** That's an issue, I guess, if we don't have people. Then would it be the same process, that we'd put out a notice in the newspapers and put it on the parliamentary channel, the same way it's normally done, and then hope for people to respond—

**The Chair (Mr. Bas Balkissoon):** Can I make a suggestion? Because next week is so quick—Monday is a holiday; it's a short week—why don't we send it back to the subcommittee to meet with the Clerk and myself and set out the logistics properly, and we do it in June, as suggested by Ms. Cansfield?

**Mrs. Donna H. Cansfield:** And if I may—

**The Chair (Mr. Bas Balkissoon):** And then we'll get the list of députants we want to hear from, where to advertise it, pick the locations, because it was three locations, but we only asked for two days of travel. It was rushed, and there's so much being put on this committee's plate—aggregates, transportation, ambulance, insurance—that it's getting a little bit out of control.

**Mr. Mike Colle:** Yes, we've got to deal with aggregates. We were supposed to be dealing with that yesterday. We haven't dealt with it.

**Mrs. Donna H. Cansfield:** If I may also, we don't have a venue, so you can't advertise for some place if you don't know where you're going.

**Mr. Mike Colle:** You could do it on a bus.

**Mr. Todd Smith:** Do you recall why this urgency to have it next week?

**Mrs. Donna H. Cansfield:** No.

**Mr. Mike Colle:** No, there wasn't. It was really trying to accommodate everything—

**The Chair (Mr. Bas Balkissoon):** First Mr. O'Toole suggested that we meet while the Legislature was sitting, and we go, "You can't do that because we don't have members"—

**Mr. Rick Bartolucci:** Chair, you've made a good suggestion. I think we can bandy this about, but at the end of the day the subcommittee is going to decree anyway, so why don't—it's a good idea to go back to the subcommittee, sit down and work out something that works—

**The Chair (Mr. Bas Balkissoon):** Or the other thing we could do is—we're meeting on Wednesday again? We're meeting on Wednesday again, so if all of you will come back with your own caucus input so that we could design the logistics right here on Wednesday, that's fine with me.

**Ms. Teresa J. Armstrong:** Can I please just get the three locations you're thinking of? Durham—

**The Chair (Mr. Bas Balkissoon):** No, the suggestions of everybody who was interested were Durham, Mississauga and Hamilton.

**Mrs. Donna H. Cansfield:** And actually, if I recall, originally we also said the north.

**Mr. Todd Smith:** Northern gridlock.

**Mrs. Donna H. Cansfield:** Well, there's a different kind of gridlock.

**Mr. Mike Colle:** Certainly. Somebody made that amendment.

**Mrs. Donna H. Cansfield:** I did.

**Mr. Mike Colle:** Okay. Listen, I agree. Wednesday?

**The Chair (Mr. Bas Balkissoon):** Okay. My suggestion is the subcommittee can meet Wednesday after the committee meeting and set out the logistics, or we can refer it to the subcommittee, and as the Chair I call that meeting whenever.

**Mr. Jagmeet Singh:** I'm just concerned that someone—we requested this for next week, so there must have been some reason for that.

**The Chair (Mr. Bas Balkissoon):** To be honest with you, I was at the meeting, and everybody was struggling with what to do because everybody had a different opinion on what they want out of this. That's my recollection.

**Mr. Jagmeet Singh:** Okay, that's fine.

**The Chair (Mr. Bas Balkissoon):** That's fine? So we'll do it Wednesday. After our regular meeting, the subcommittee will stay and meet. Just make sure your subcommittee member knows that they have to be here, and your subcommittee member, and Mr. Colle.

**Mrs. Donna H. Cansfield:** We'll get Mr. Colle in line.

**Mr. Todd Smith:** Done.

**The Chair (Mr. Bas Balkissoon):** We're adjourned.

*The committee adjourned at 1706.*

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### STANDING COMMITTEE ON GENERAL GOVERNMENT

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Mr. Jim McDonell (Stormont–Dundas–South Glengarry PC)

Mr. Jagmeet Singh (Bramalea–Gore–Malton ND)

#### **Also taking part / Autres participants et participantes**

Mr. John O’Toole (Durham PC)

#### **Clerk / Greffière**

Ms. Sylwia Przedziecki

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Second Session, 40<sup>th</sup> Parliament

## Official Report of Debates (Hansard)

Wednesday 15 May 2013



## Assemblée législative de l'Ontario

Deuxième session, 40<sup>e</sup> législature

## Journal des débats (Hansard)

Mercredi 15 mai 2013

### Standing Committee on General Government

Ambulance Amendment Act  
(Air Ambulances), 2013

### Comité permanent des affaires gouvernementales

Loi de 2013 modifiant  
la Loi sur les ambulances  
(services d'ambulance aériens)

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Wednesday 15 May 2013

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Mercredi 15 mai 2013

*The committee met at 1603 in room 228.*AMBULANCE AMENDMENT ACT  
(AIR AMBULANCES), 2013LOI DE 2013 MODIFIANT  
LA LOI SUR LES AMBULANCES  
(SERVICES D'AMBULANCE AÉRIENS)

Consideration of the following bill:

Bill 11, An Act to amend the Ambulance Act with respect to air ambulance services / Projet de loi 11, Loi modifiant la Loi sur les ambulances en ce qui concerne les services d'ambulance aériens.

**The Chair (Mr. Bas Balkissoon):** We'll call to order the meeting of the Standing Committee on General Government. We're going to be dealing with Bill 11, An Act to amend the Ambulance Act with respect to air ambulance services.

OFFICE OF THE AUDITOR GENERAL  
OF ONTARIO

**The Chair (Mr. Bas Balkissoon):** Our first presenter is the Office of the Auditor General: Mr. Peall.

**Mr. Gary Peall:** Thank you, Mr. Chair.

**The Chair (Mr. Bas Balkissoon):** Just before we get started, you have five minutes for a presentation and then we'll rotate questions, 10 minutes per party.

**Mr. Gary Peall:** Fair enough. Thank you.

Good afternoon. For those of you who haven't met me, I'm Gary Peall, the Acting Auditor General. I'm pleased to have the opportunity to discuss with the committee Bill 11, An Act to amend the Ambulance Act with respect to air ambulance services. With me is my acting deputy, Susan Klein, who also directed the audit of Ornge.

As you well know, our audit of Ornge, which was tabled in March of last year, found that ministry oversight of Ornge was inadequate. The ministry was not obtaining sufficient information to monitor how well Ornge was doing the job. As well, the ministry didn't adequately oversee Ornge's procurement practices and its inner-company arrangements with management and the board to ensure that they were following appropriate public sector business practices.

While Ornge indicated that its structure was necessary for legal, tax and other business reasons, it also had the

effect of denying access to various transactions and agreements we wished to review—ultimately, a loss of transparency.

With a view to getting better information for ensuring that the amount paid for air ambulance and related services is reasonable for the level of service provided, one of my office's recommendations was that the Ministry of Health and Long-Term Care should either consider renegotiating Ornge's performance agreement or develop an alternative mechanism to ensure that the public's interest in Ontario air ambulance is being protected.

I note that the ministry has already revised its performance agreement with Ornge. It has also overseen a number of staff changes and operational reforms that should further help address the issues we identified. This bill may be viewed as a further response to that recommendation.

From our perspective, it is crucial that there be an effective oversight of organizations entrusted to deliver vital services. I remind this committee that the role and size of these organizations and the number of dollars they administer are all too critical to be left to chance or indifference.

For oversight to be effective, there needs to be an assessment of the organization's governance practices. If boards are performing their oversight role effectively, ministry oversight can be tailored accordingly.

Effective oversight should also include determining what performance information is needed, ensuring those responsible for oversight have the training they need to critically review the information they get and periodically obtaining assurance on the reliability of the information they're getting, such as through site visits to observe operations and service delivery or through audit. In short, passive supervision should give way to active and energetic oversight. The greater the perceived risk, the more energetic the oversight.

Robust complaint and whistle-blowing processes also assist with providing information for good governance. These processes can take many forms.

Overall, I'm encouraged by the actions taken so far to address the concerns raised by my office during that audit.

Thank you, and I'd be happy to respond to any questions you may have.

**The Chair (Mr. Bas Balkissoon):** Thank you. We'll start with the Conservative Party.

**Mr. Frank Klees:** Thank you, Chair. Auditor General, you're intimately familiar with this file, and one of the concerns that was expressed by the Auditor General in his report was the lack of co-operation from Ornge.

I would like you to just comment at the outset about the difference between having a performance agreement that requires certain standards to be met, having a piece of legislation such as Bill 11 before us, and the degree to which this Bill 11 now and the amended performance agreement would have made any difference in the challenge that you had to get the information that you needed. What is it that has changed between the amended performance agreement and Bill 11 that would make it easier for you to get the information that you needed to do your report?

**Mr. Gary Peall:** In the first instance, we wouldn't have had easier access. If people choose not to co-operate—you can't legislate good behaviour or morality, so that's an issue.

But in terms of what Bill 11 allows and what the performance agreement allows, at least we have—the more action you can take if you're not getting the answers you expect to get. If you lose confidence in a board, if a board isn't co-operating with you, isn't providing you the information you need, you have an easier way—and as I understand it, through this bill, much like a hospital situation, where, if the funding ministry loses confidence in the board's ability to oversee the operations, to co-operate fully, to be fully transparent about what they're doing and how they're doing it and how well they're performing, they have an opportunity to, fairly quickly, take that board over and put someone in who can actually do what the ministry wants done.

1610

**Mr. Frank Klees:** I've heard that said by the minister. I don't see how Bill 11 or the amended performance agreement provide any more ability for the ministry to take that action. There were all kinds of mechanisms in the previous performance agreement that allowed the ministry to move in—and as simple as saying, "Look, if you don't comply, we're going to cut off your funding." The very threat of that is going to get any agency or any facility's attention.

My concern about this is that we now have a bill that represents to create more opportunities for the ministry to act, but I'm afraid that what we've got here is more smoke and mirrors.

I was hoping that you as the Auditor General would be able to point me to something in Bill 11 that is different from the previous legislation or performance agreement that would actually give you, as the Auditor General, additional authority. Can you point me to anything in Bill 11 that would do that?

**Mr. Gary Peall:** No. As drafted, it's not giving us any more authority. Typically we have the authority, in most cases. What happened in Ornge's case is, they created organizations that fell outside our authority and actually fell outside the performance agreement. That was the first fundamental flaw, and that's what created the gap in our

ability to get information. I don't know that Bill 11 fully addresses that aspect of it, but certainly that would be critical to be able to—the ministry should have control over a funded agency's ability to create other agencies that can obfuscate and make less transparent what it's doing. So if you can create things so that you can't access that kind of information—that shouldn't be happening.

**Mr. Frank Klees:** Thank you. You've confirmed for me what, certainly, our analysis is of this bill.

I'd like to move to the issue of whistle-blowing. At the end of the day, the reason that we were able to at least start to uncover what was going on at Ornge was not because of the Ministry of Health's oversight, because your report made it very clear that the Ministry of Health failed miserably in their oversight responsibility; it was because of whistle-blowers within the organization. They came forward at great risk. In fact, there are people today who have lost their jobs. There are individuals who will never again be the same because of the stress that they experienced because they chose to come forward, and felt compelled to.

The whistle-blowing protection that now is heralded by the minister as being new and should be giving some comfort to employees of Ornge—I'm going to read section 7.7(1)(a). It refers here to the fact that:

"No person shall retaliate against another person, whether by action or omission, or threaten to do so because,

"(a) anything has been disclosed to an inspector, investigator or special investigator in connection with a designated air ambulance service...;" or

"(b) anything has been disclosed to the ministry in connection with a designated air ambulance service...."

Here is my question: This whistle-blower protection is limited to an employee disclosing information to a very limited group of individuals. For example, it doesn't include us, as members of the Legislature here. It doesn't include anyone outside of this well-defined group of individuals.

The truth of the matter is that people went to people within the ministry and were ignored under the previous set of circumstances. They went to their superiors and were ignored. We heard through testimony that people went to a director on the board of directors and were ignored.

I'd like your opinion as to the clause here that deals with whistle-blowing, and whether, in your opinion, there should be a broader definition of "whistle-blowing" and the kind of protection that employees could expect to have.

**Mr. Gary Peall:** It's always a delicate balance in terms of creating a system that removes the fear of coming forward, protects their identity and protects their future, and allows them to speak freely about what their concerns are. Expanding it beyond the people who are directly involved with the organization—I'm not sure how much they need protection for writing us, the Ombudsman or a member. If any citizen or employee of an organization has a concern that something they see

just isn't right, they are completely free to come to us; we're certainly there with all the legislative protections to keep what they give us confidential and to protect them.

Outside of that realm, I don't know that we necessarily need additional protections, but this at least gives more protection than, I guess, had been clear to anyone before. Whether it would encourage more people to come forward who were afraid to in the past, I don't know.

**Mr. Frank Klees:** We'll be making some suggestions in terms of amendments that would include your office—the Auditor General—and the Ombudsman. I think people need to have the freedom to come forward to a third party rather than someone within the organization—

**The Chair (Mr. Bas Balkissoon):** You have one minute.

**Mr. Frank Klees:** My question, very simply, is this: Should an amendment be accepted to this legislation that would include the Auditor General's office? Is that something that your office would be able to accommodate, or do you feel, administratively, that it's better directed to the Ombudsman or another office?

**Mr. Gary Peall:** Our legislation is really geared less to a complaint-driven kind of system. We obviously take complaints and I think people are, under the existing legislation, free to do that. I don't need any additional legislation from any particular part of government or any particular act to allow people to come forward to us. I would say that's probably true of some of the other officers as well. I don't need a change to this act to accommodate that. We take complaints routinely. We're often copied on complaints that—

**The Chair (Mr. Bas Balkissoon):** Thank you very much.

**Mr. Gary Peall:** Sorry.

**Mr. Frank Klees:** Thank you.

**The Chair (Mr. Bas Balkissoon):** We have to move to the third party. Ms. Gélinas?

**M<sup>me</sup> France Gélinas:** Although I was very interested in your answer—long time no see—I will continue on whistle-blowers for one second. The whistle-blower protection that we have now is very restrictive as to who you can complain to, but at the end of the day, the whistleblower could still lose their job. They could still be without pay and end up having to fight their employer in court to get their job back based on those protections. It's not exactly a position of power. Once you don't have a job and don't have money, how do you go to court?

My question to you is: I realize there's a balance between the two, but is the scenario I've just put forward pretty close to what could happen?

**Mr. Gary Peall:** I guess it's possible. Like I say, you want a system that will protect them and allow them to speak freely, so if the committee and the government—or at least the Legislature—felt that there was a need to further protect them, I'm comfortable with that.

**M<sup>me</sup> France Gélinas:** Okay. There is a provision in the bill that allows the ministry to change the letters patent of an agency. Have you seen this elsewhere?

**Mr. Gary Peall:** I can't think of an example off the top of my head. I can't say that it's never happened. It's possible, but I can't think of one.

**M<sup>me</sup> France Gélinas:** You can't think of one?

**Mr. Gary Peall:** No.

**M<sup>me</sup> France Gélinas:** Neither can I.

You know that when a ministry—we'll take the Ministry of Health—funds an agency, sure, they have the performance agreement in front of them, but they also have other power, the power of persuasion, with the fact that they hold the purse strings. In this particular case, do you see any evidence that the Ministry of Health used that power to get Ornge to change anything?

1620

**Mr. Gary Peall:** I guess the short answer is no, in the sense that we still concluded that the oversight and the actions taken on what information was obtained weren't sufficient.

**M<sup>me</sup> France Gélinas:** So they already had powers that they didn't use. Now they're asking for powers that, frankly, I have never seen in any other health care transfer payment agency. I've never seen where the ministry would have unilateral access to your letters patent and could change them. They had powers that they didn't use, and now they want more power. I see a bit of a dichotomy in there. The bill as we see now, with the extra power, is only good if the government decides to use those powers.

*Interjection.*

**M<sup>me</sup> France Gélinas:** You have to speak.

**Mr. Gary Peall:** True.

**M<sup>me</sup> France Gélinas:** I got you, but—

**Mr. Gary Peall:** People need to do their jobs.

**M<sup>me</sup> France Gélinas:** People need to do their jobs. You made it clear that if an agency wants to hide things, as Ornge wanted to hide things from you, there is basically not a whole lot you can do, but if the government decides not to do their job, then there is not much that a bill like this would do.

**Mr. Gary Peall:** True. Like I say, you can't legislate people doing their jobs effectively. They have to take action on the information they get or don't get. If they aren't getting everything they expect to get, and they've made their expectations clear, there's a responsibility to respond accordingly. While they may not have had all the tools in place—they did have to do some legal manoeuvres to take back control of Ornge—they did have a funding hammer that they could have used. It is an essential service, so it's not like you could just withdraw funding. But you did have the moral suasion, as you point out, to try and influence. Certainly, I'd have a deep concern if I'm dealing with board members or senior members of management that are not being all that cooperative and not giving the information you need.

**M<sup>me</sup> France Gélinas:** If the need to control that agency is such that we need a bill like this, then would you say that the powers that we will give the government for that particular agency—that identical powers should be given to the government for every health care agency?

Why are we doing this to Ornge but not to mental health agencies, to community health centres, to everybody else that has a board of directors, receives transfer payments from the ministry and does an essential health care service? Apparently, we need all those extra powers for the ministry to do its job with air ambulance; doesn't the ministry need the same tools to do its job with every other health care agency?

**Mr. Gary Peall:** It's a fair point. In my opening remarks, I tried to suggest that what all ministries need to do is look at what arrangements they have in place and have some confidence that if the governing boards of each of those agencies that they're funding aren't doing their job, or have confidence that they are doing their job, then that can influence how much actual oversight they need and how in depth they have to get. If they're getting good information, if there's no hesitation in giving anything they want and there's full transparency around their actions, their salaries, all the rest of it, there's really not as much concern or risk in the eyes of the people who are charged with overseeing them. For me, it's more trying to tailor it to the situation and the circumstances you've got.

In this particular case, I guess we're trying to treat them more like hospitals so that if you run into a similar situation—and I guess we're talking mostly about that because of their size, as much as anything. Most of the hospitals are pretty big businesses. This was a fairly big business, and given how much funding and how important the services are, you want to have a fair bit of control, since ultimately the minister is accountable for how those services are delivered.

**M<sup>me</sup> France Gélinas:** Given the people who were at Ornge and given, I would say, the lack of action from the ministry with the power they had, do you figure if Bill 11 had been in place, things would have turned out any differently than what they ended up turning out like?

**Mr. Gary Peall:** It's difficult to speculate. They would have perhaps been able to act more quickly, if there was a will to act, with this act in place.

**M<sup>me</sup> France Gélinas:** If there's a will to act—I think that says it all. Thank you.

**The Chair (Mr. Bas Balkissoon):** Thank you. We'll go to the government side. Ms. Jaczek.

**Ms. Helena Jaczek:** Good to see you again, Gary and Susan.

**Mr. Gary Peall:** Likewise.

**Ms. Helena Jaczek:** We spend most Wednesdays together. Of course, you've been listening to the testimony, as we on public accounts have as well. I think you would agree that we've heard that Ornge was a very unique situation. There was stonewalling of attempts to obtain information. I think we have come to the conclusion, those of us on public accounts, that essentially this was a rogue agency where the board of directors had ignored their fiduciary responsibility.

In that light, we do have a unique situation. We have, of course, your special report that is dated March 2012. We know from the Minister of Health and Long-Term

Care that when she first heard of the Auditor General's concerns and those of the forensic audit team that went in, she took immediate action at that time to initiate the OPP investigation as well as, in fact, the bill that we see in front of us.

I would say that this was clearly an attempt to create opportunities, in the event of a similar situation occurring in air ambulance, that there would be some powers that the minister would have, such as appointing members of the board, appointing a supervisor. Would you agree that this seems to be, in terms of timeliness, a response to the issues raised in your special report of March 2012?

**Mr. Gary Peall:** Yes, and as I said in my opening remarks, it does address one of the recommendations, or at least part of it. The additional provisions in the performance agreement, the greater specificity around the performance information that's required from Ornge—all of that speaks to trying to tighten that recommendation up.

This is another piece. If it's viewed much as a hospital would be, then this legislation is consistent, at least in part, with that. It would give a minister more obvious control of a circumstance and would hopefully prevent at least some of what Ornge did.

**Ms. Helena Jaczek:** In terms of when you were trying to obtain information, was the issue of federal incorporation raised with you by Ornge, to say that therefore you had no jurisdiction?

**Mr. Gary Peall:** Not really. I think it was more the agencies that were created off of Ornge. We had access to anything that the performance agreement was signed under. So any of the organizations that were under Ornge that were funded by the government, we had access to. It was the ones that were created as private companies that we did not have access to.

**Ms. Helena Jaczek:** You've alluded to the fact that there's a parallel here. We've heard in public accounts, from Ministry of Health and Long-Term Care legal counsel, that Bill 11 is essentially modelled on the Public Hospitals Act—some provisions in there in terms of substantial transfer of resources from the province to public hospitals—and therefore a lot of these provisions are similar. Do you see that? I mean, that's legislation again that you have no doubt audited public hospitals with. Do you think that that's a useful thing to do? This is a \$150-million service, very important to the residents of Ontario. Do you think this is at least creating some parallel legislation?

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**Mr. Gary Peall:** Well, yes, it is creating some parallel legislation. I know in the past the Ministry of Health and Long-Term Care has had to put a supervisor in to help bring a hospital back under financial strength and sustainability. They do run into trouble from time to time, so it's proven to be a useful tool in the past, where those things happened, maybe even despite the best efforts of the board that was in place at the time. It's probably prudent in an organization that is providing services very

much similar to a hospital that you have a similar kind of hammer.

**Ms. Helena Jaczek:** So if you are to go back, maybe in five years, and audit Ornge again, would—

**Mr. Gary Peall:** Please, no.

**Ms. Helena Jaczek:** If you were to find an issue that was of some concern, then communication to the ministry, something like appointing a supervisor, might be a useful provision?

**Mr. Gary Peall:** Yes.

**Ms. Helena Jaczek:** Is there anything else in Bill 11—and I think Mr. Klees was getting at this earlier. Would you have any suggestions for us to improve this bill?

**Mr. Gary Peall:** Not really. It doesn't really impact our office at all. We'll still have most of the same access rights, and we'll still be able to play the role that we do now if people have complaints about any part of government service or a service provider. On this particular bill, I don't have any concrete suggestions, no.

**Ms. Helena Jaczek:** That's all my questions, unless either of my colleagues—

**The Chair (Mr. Bas Balkissoon):** Ms. Cansfield?

**Mrs. Donna H. Cansfield:** Thank you. I just had one question. Every ministry has an internal audit system, so how did that internal audit system not pick this issue up?

**Mr. Gary Peall:** There's probably a long answer to that. It's a good question. There was an audit done that was actually contracted for by the ministry's internal audit service and a firm did it on their behalf. While there were some issues with that audit, it did raise some concerns, or red flags, as we've referred to in the public accounts committee hearings. Those weren't dealt with as promptly as they needed to be as well, so there was an arrangement to have an audit go in.

As I said in my opening remarks, that's one of the things that—ministries overseeing funded agencies should have that tool available to them. It's not just enough to get information from an agency and critically review it, assuming you understand what you're reviewing. You have to have some confidence that information is reliable. There are aspects of their operation that you won't necessarily get insight into from the information you're getting. So you need some eyes and ears to go in and try to collect that.

It's hard to do effective oversight from a desk. You need to be out there. It's just like if we tried to do our audits from a desk, we wouldn't get very far. You need to be out, talking to the people who deliver the services, to really find out what's happening.

That's the value in internal audit as well. In this case, it did provide some value. It probably could have provided more value. But it is a part of the accountability relationship you'd want to have and use when you see the risks warranted.

**Mrs. Donna H. Cansfield:** Would you say, then, that the scope of the audit would be really important, for example, having a forensic audit be even built into the bill? Or would you just say it's a given? Because I

presume the audit would have to have a scope around it, in terms of its mandate or whatever it's been given.

**Mr. Gary Peall:** Yes, in internal audits, it will do whatever scope the users want it to do. If the ministry has specific concerns or it has specific doubts around information it's getting, or an aspect of the operation, it can scope it any way it likes. It can be as broad or as narrow.

**Mrs. Donna H. Cansfield:** Then, in that case, the audit is triggered by something that doesn't feel right as opposed to just part of a regular transparency, accountability and oversight procedure.

**Mr. Gary Peall:** It can be both.

**Mrs. Donna H. Cansfield:** It can be both.

**Mr. Gary Peall:** It can be both. I'm just saying that it is a tool you can use when you spot things going wrong as well. A lot of what internal audit does can be cyclical, but to make the best use of their resources, they're trying to do their own risk assessments as well. They take all the information they're getting from people within the ministry to say, "Okay. Where are the risks out there? Where should we be putting our time and effort?"

It's exactly the same way we approach our work. There are an awful lot of things to potentially audit each year out there, and we have to be fairly selective about it. So we look at the risks and—

**Mrs. Donna H. Cansfield:** My last question, then: Is an internal audit sort of too close to the forest as opposed to the external, which would give a broader overview?

**Mr. Gary Peall:** The biggest difference is, an internal audit reports through to management, so as long as management does its job faithfully and professionally, that whole system can work.

Ministries have corporate audit committees. They're made up mostly of inside people—mostly assistant deputy ministers, I think. Then there's the corporate audit committee, which is deputy ministers. So there is some independent oversight provided by that kind of reporting relationship, but it's not quite the same as having none of those people as your bosses. I have that luxury of saying, "I don't have to report to you. I don't have to do what you tell me to do."

**Mrs. Donna H. Cansfield:** Thank you very much.

**The Chair (Mr. Bas Balkissoon):** Mr. Peall, thank you very much. Thank you for taking the time to be here with us.

**Mr. Gary Peall:** Thank you very much.

#### OFFICE OF THE OMBUDSMAN OF ONTARIO

**The Chair (Mr. Bas Balkissoon):** We'll now move to our next deputant, the Office of the Ombudsman. Mr. Marin.

[Inaudible] to the subcommittee members that there's a request to film the proceedings.

**Mr. Frank Klees:** As long as we get royalties.

**The Chair (Mr. Bas Balkissoon):** Okay. You want to be the chief star?

Okay, you have five minutes to present, and then we'll go to questions, 10 minutes per party.

**Mr. André Marin:** Thank you, Mr. Chair and members of the committee. Debate over extending the Ontario Ombudsman's mandate over the broader public sector has been raging since 1975, the very first year of the creation of the office. It has been 38 years of unfinished business. Broader public sector exclusion wasn't by design but, rather, a character flaw in the Ombudsman Act.

In 1979, a few years into the job, Ontario's first Ombudsman, appointed by Premier Bill Davis, produced a blueprint on what worked, what didn't and what should be fixed. On page 383 of this blueprint, Ombudsman Maloney said, "It is my considered view that the Ombudsman's jurisdiction should similarly be extended to include such organizations as hospitals, universities, boards of education, nursing homes and other such bodies financed in whole, or in substantial part, with public funds." I'm sure if Ornge existed back then, he would have added that to the list as well.

Successive Ombudsmen, right up to me, have made the same point, but there has been little political appetite to go there. Debate, however, is not abating. It is getting louder, more vigorous and picking up steam. Since 2005, there have been no less than 14 private members' bills, from all party members, proposing some extension of our mandate into a part of MUSH. Since 2005, there have been 106 petitions tabled in Parliament to extend Ombudsman oversight into the broader public sector. Today, this committee is uniquely placed to start fixing a 38-year character flaw in the Ombudsman Act and in related jurisdictions by amending Bill 11 so that it is under Ombudsman oversight. You can start making it right today.

The Ombudsman does not work for a public servant or a minister. You are my boss. I am the eyes and ears of the assembly—and, by extension, the public—in the corridors of power.

Now, what's wrong with Bill 11? Nothing and everything. It consists of an elaborate series of baby steps that will improve internal checks and balances—not a bad thing, but falling short of true oversight. We are ahead by a few yards but far from a touchdown. Some highlights include special investigators who can be appointed and report to the minister. The government may take over Ornge through supervisors if it really runs aground. Outside the bill, there is a patient advocate who reports to an Ornge vice-president, collecting compliments and dealing with complaints.

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These all fall into the nice-to-have internal mechanisms category. They are the gravy on the meat; the cherry on the sundae. These mechanisms cannot be confused with true, independent oversight. Everything proposed is tied to the bowels of Ornge or the ministry or the minister's office.

The Ombudsman is the Legislature's and the public's watchdog, not the ministry's pet. It is neither the gravy

on the meat nor the cherry on the sundae, but a vital component of government accountability in Ontario. Bill 11 is more inner sight than oversight. If the government believes it requires inner sight, then of course we have no objection to that. But what Ornge really requires is oversight: the ability to complain to an independent body that has the tools to investigate and, if necessary, report back to the Legislature and publicly on the issue, while making necessary recommendations. As Ontario's watchdog, we are the gold standard in keeping government maladministration at bay.

**The Chair (Mr. Bas Balkissoon):** You have one minute left.

**Mr. André Marin:** In this bill, oversight is nowhere to be found. I certainly don't need to remind committee members of Ornge's colossal failure to administer public resources with integrity in the public interest. Today I ask you to take the first step in fixing the MUSH character flaw in the legislation by making an amendment deeming a designated air ambulance provider as a government organization under the Ombudsman Act.

**Mr. Frank Klees:** He's done.

**The Chair (Mr. Bas Balkissoon):** We'll go to questions. The third party: Ms. Gélinas.

**M<sup>me</sup> France Gélinas:** Thank you. Bienvenue.

**Mr. André Marin:** Merci.

**M<sup>me</sup> France Gélinas:** I will start with a question on a letter that you wrote on March 1, addressed to the honourable Minister of Health, Christine Elliott and myself. Do you remember your letter?

**Mr. André Marin:** I do, yes.

**M<sup>me</sup> France Gélinas:** My first question is: Did you ever get an answer to your letter?

**Mr. André Marin:** I received an answer this morning.

**M<sup>me</sup> France Gélinas:** Oh, wow. Are you allowed to share with us what it says?

**Mr. André Marin:** I believe you're copied on that answer.

**M<sup>me</sup> France Gélinas:** Okay.

**Mr. André Marin:** It's an elaborate letter. Essentially there are three or four pages to the letter laying out the mechanisms in Bill 11 and other internal mechanisms set out by Ornge without taking a position one way or another on Ombudsman oversight.

**M<sup>me</sup> France Gélinas:** So the letter didn't finally convince you that they're going to grant your office oversight of Ornge?

**Mr. André Marin:** The letter is ambivalent. It doesn't say no; it doesn't say yes. It thanks me for raising concerns and lays out what is in Bill 11 and what's done by Ornge.

One of the concerns I have, of course, is, the patient advocate office, which is set up as kind of an office to placate Ombudsman oversight. Right now in Ontario there are 227 hospital sites. My understanding is that there could be upwards of 150 patient advocates. These offices were set up in June 2010 as a result of a legislative amendment.

These offices, many of which have been in operation for three years—I am not aware of any public reporting by any of those offices, let alone public reporting critical of their organization. They are inherently part of that organization. They don't have the independence. So when I'm told that patient advocates are the answer, I'm not saying that they are useless, but they are not an answer to oversight. They may be good to collect compliments, look at complaints and provide internal advice that is useful, but it is not oversight.

**M<sup>me</sup> France Gélinas:** If we look at the 150 patient advocates that are within the 150 hospital corporations in Ontario—do you still get complaints to your office about hospitals, although they have patient advocates?

**Mr. André Marin:** Yes, we do, and every year we update it in our annual report. I don't have the exact figure right now—my deputy will look it up right now. We have many complaints regarding hospitals, regarding, actually, the operations of patient advocates as being biased and unhelpful to deal with hard-core issues. There are instances where they may be relevant, but to deal with the hard-core issues that have brought the Ornge issue to the public front—my view and the view of our office is that patient advocates are not a useful tool. Last year we received 383 complaints dealing with hospitals. We are the only jurisdiction in Canada where there's no Ombudsman oversight of hospitals either.

**M<sup>me</sup> France Gélinas:** How about Ornge? Have you received any calls or complaints about Ornge?

**Mr. André Marin:** Over the years we've received 29 complaints concerning Ornge, including five from whistle-blowers. We've been unable to deal with those complaints. In some instances we've, when appropriate, referred them back to the ministry. We collaborate with the Auditor General as well. But we've been unable to get to the bottom of those complaints because of our lack of jurisdiction.

**M<sup>me</sup> France Gélinas:** The 29: Can you give me an idea as to when you received them? In 2000? In 1995?

**Mr. André Marin:** My deputy will look that up, but I think it's since 2005.

Yes. From April 2005 to March 2006, two; 2006 to 2007, one; April 2008 to March 31, 2009, three; April 2011 to March 2012, 11; April 2012 to March 31, 2013, 12.

Dealing with whistle-blowers, the beauty about the Ombudsman Act is that it has built-in protection for whistle-blowers. Number one, we can statutorily guarantee the confidentiality of the complainants. Our records cannot be subpoenaed by the courts, for example. I'm immune from being compelled to testify and open up my files to the courts. It's protection like no other in our system.

Secondly, supposing the identity of the whistle-blower became known and reprisal action was taken, that would be viewed, in my opinion, as obstructing the Ombudsman in an investigation, and that is an offence, in our act, punishable by fine and imprisonment. So all this talk about protecting whistle-blowers—the beauty about the

Ombudsman Act from 1975 is that it has the absolute protection punishable by jail. We would investigate that and lay charges and prosecute it ourselves.

If you really, truly want to protect whistle-blowers, speaking to MPPs or to anybody else, for that matter, the solution is very simple: inclusion of Ornge in our mandate. It's as easy as that.

**M<sup>me</sup> France Gélinas:** Has the ministry ever given you a full answer as to why they keep saying no? You have documented the number of private members' bills, petitions and complaints. The complaints against Ornge continue to come in although they have their new patient advocate, their new supervisor and all of this. Has the ministry ever articulated a good reason why not?

**Mr. André Marin:** Not beyond all those that are before you right now. There's no doubt, in my opinion as Ombudsman, that one of the issues that I see is that the office is independent. You can't control the office. The special investigators that can be appointed by the minister—what is the threshold task? What is the evidence that will be required before the minister makes a decision? Even then, when the appointment is made, the report is made to the minister. It's not public reporting.

All these measures, as I said, are more inner sight than oversight. They allow always the minister to be in a position of control. I'm not saying that's a bad thing. It's a good thing if you want to prevent the reoccurrence of a lot of things that we've seen in this file, but to call it the answer to oversight is questionable.

My other observation is that we oversee over 500 different bodies: quasi-judicial tribunals, agencies, boards, commissions and line ministries. We take 20,000 complaints a year; we operate a big machine. When I look at Ornge—600 people, \$150 million—relative to the rest of our caseload, I wouldn't think it would be a cause to request additional funding for our office. We could just absorb it as part of our machine.

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When I look at the amendments that are proposed, they are not inexpensive; they will cost money. The value in our office is that it operates independently. It's not afraid to ask, it cannot be controlled politically, and I can't see it as being a cause to increase the resources of our office, because of the size of the machinery we currently operate.

**M<sup>me</sup> France Gélinas:** I want to come back to—you shared with us that of the 29 complaints you received, six were from whistle-blowers.

**Mr. André Marin:** Five, sorry.

**M<sup>me</sup> France Gélinas:** Sorry, five. I take it that you followed Ornge. You saw that money was taken from the public side to the for-profit, that Mr. Mazza's compensation was in the \$1.4-million range. Without sharing with me things you're not allowed to share, are those the sorts of complaints that the whistle-blowers were bringing forward?

**Mr. André Marin:** Yes.

**M<sup>me</sup> France Gélinas:** So exactly what the scandal ended up being.

**Mr. André Marin:** Well, as the Acting Auditor General said—

**The Chair (Mr. Bas Balkissoon):** You have one minute left.

**Mr. André Marin:** —there's a big difference between the work he does and the work we do. He is in charge of financial oversight—where the numbers go, value for money, that kind of thing—so he's not set up to take complaints. We are set up to take complaints. That's our business: complaints about maladministration. We don't review financial records; we review administrative decisions that are made with public funds. Administrative decisions, whether it's buying helicopters or not allowing complaints to go forward, censuring whistle-blowers: Those are all the kinds of things that clearly would fall within our mandate.

**M<sup>me</sup> France Gélinas:** Okay, and I'd say I would agree with you that you are the ultimate whistle-blower protection. If somebody goes to you, they can feel safe. They don't need to hire a lawyer and they're not going to lose their job. Thank you.

**The Chair (Mr. Bas Balkissoon):** We'll move to the government side. Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you, Mr. Marin, especially for your overview of the history in terms of the original Ombudsman Act. I think you said 1975. Since that time, we've had Conservative governments, we've had one NDP government and of course, now, the Liberal government. None of those has picked up on the suggestion to expand the powers of the Ombudsman to the MUSH sector. Is that correct?

**Mr. André Marin:** That's correct.

**Ms. Helena Jaczek:** During that time, no doubt—do you have any data related to complaints about the original air ambulance system in Ontario, prior to 2005?

**Mr. André Marin:** No, we don't.

**Ms. Helena Jaczek:** You don't. So you started collecting this—

**Mr. André Marin:** The practice in our office has historically been not to track complaints that were outside our jurisdiction. We decided in 2005 to track them whenever feasible so that we would have answers to questions by the public and from MPPs when the matter arose, but we did not keep statistics prior to 2005.

**Ms. Helena Jaczek:** When you first received complaints in 2005, how did you deal with them, the ones specifically related to this—well, Ornge, I guess, was established in 2005. How did you deal with those?

**Mr. André Marin:** Well, depending on the nature of complaints, what we do when we have non-jurisdictional complaints is we try to help complainants find their way to bodies that can investigate. What we do with those cases is counsel them, provide them with information as to where their complaints may be able to go, whether it's the ministry or to do some follow-up with the Auditor General's office, but basically, that's all we can do.

**Ms. Helena Jaczek:** And specifically in these 29, did you refer them to the Ministry of Health and Long-Term Care?

*Interjection.*

**Ms. Helena Jaczek:** I hope this isn't eating my time.

**Ms. Barbara Finlay:** Some of them would have been referred to the ministry—not all of them, but some people would have been referred to the ministry. Some people complained to us that they had been to the ministry and they didn't get a response to their complaint, or the response wasn't responsive to the issues that they had raised.

**Ms. Helena Jaczek:** If you had oversight, as you are asking for an amendment, clearly, to Bill 11, what would you do in the case of what is, after all, a very tiny number of complaints, 29 out of—I don't know, in the time span since 2005, you said 20,000, perhaps? Is that over that same time span that you received 29 related to Ornge, that you received 20,000?

**Mr. André Marin:** No; last year, we received over 20,000 complaints in one year.

**Ms. Helena Jaczek:** So it would be safe to say that, since 2005, you may have received up to 100,000 complaints, and this would be 29 of those?

**Mr. André Marin:** Yes. Our volume of cases increased 27% last year, and another 20-something per cent the year before, but I see your point. There have been tens of thousands of complaints, and only 29 dealing with Ornge. Often the result of all the complaints in an area as a result of this kind of case—there are two factors at play. One is that people know that we don't oversee Ornge, so they don't bother to complain, or there is a lack of confidence that anything will happen even if they complain. I take your point, but it also has to be measured with those two factors.

**Ms. Helena Jaczek:** In my opinion, people don't know what areas the Ombudsman has control over. I would be astonished if they did, but anyway, we'll leave that.

What would you have done differently, supposing that you had investigated complaint number one. You've heard about the stonewalling that the Auditor General received. What would have been different in your case, if you had been the one to respond?

**Mr. André Marin:** Well, it's an offence to stonewall. Lack of co-operation is an offence under the Ombudsman Act, punishable by fine or imprisonment, which is why we always receive stellar co-operation by the provincial government.

**Ms. Helena Jaczek:** If you receive the stonewalling—and, obviously, this is an offence—do you immediately report that to the ministry responsible for that agency?

**Mr. André Marin:** We go up the chain of command. When we feel that there is pushback, resistance or lack of co-operation, we simply make some calls. As soon as the matter goes up the chain, it hits somebody who is familiar with our act and the obligations under our act, and co-operation ensues. Co-operation is never an issue overseeing the provincial government—ever.

**Ms. Helena Jaczek:** I know hindsight is 20/20, but what you are trying to tell us is that if you'd been stonewalled, you would have gone through, as you say,

the chain of command—that there was the opportunity or the potential that individuals within the Ministry of Health and Long-Term Care would have been far quicker to move.

**Mr. André Marin:** Absolutely; I have absolutely no doubt. If you look at the experience of our office with the OLG, we did an investigation called A Game of Trust in 2007 where the OLG was reticent to accept our recommendations and the minister intervened very quickly and corrected the matter; whereas the Municipal Property Assessment Corp. is another example where the government imposed a two-year freeze to fix the issues raised in our report. I have no doubt in my mind that the government would have been very responsive.

Now, I'm not saying we would have prevented anything. I can't predict that we would have been the answer to all issues, but on that specific issue, there is no doubt in my mind that the government would have responded very quickly, because we act as a radar telling the minister, "Listen, there's a problem with this agency; it's gone off the tracks."

**Ms. Helena Jaczek:** So your experience has been that our government has been very responsive to you—

**Mr. André Marin:** Yes.

**Ms. Helena Jaczek:** —as soon as they are apprised of the fact.

**Mr. André Marin:** Absolutely.

**Ms. Helena Jaczek:** Now, you said, because of the small number of complaints, that this could easily be absorbed by your office given this volume, but I think you're really saying to us that your ambition would be to have this extended to the entire health sector. I mean, if it's in the amended Ambulance Act, which is modelled on the Public Hospitals Act, would you not logically—you've referred to the number of complaints you get from hospitals; supposing you were to extend your mandate to public hospitals, surely, then, that would have a major impact in terms of the need for staff, the size of your office, funding and so on.

**Mr. André Marin:** Your point is very good. It's very relevant that the logic that applies to Ornge applies to hospitals—no doubt about it. If the Ombudsman's office were to oversee hospitals in Ontario, it would be a measure that would require additional resources. Quebec's Ombudsman gained that jurisdiction a couple of years ago, and she added 40 staff members to her staff, but there was a negotiation with the Minister of Health in Quebec, and they transferred employees from the ministry to the Ombudsman's office and made it a cost-neutral exercise.

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**Ms. Helena Jaczek:** Would you keep the patient advocate system within the hospitals to deal with minor complaints, with compliments etc.?

**Mr. André Marin:** Absolutely. I think the patient advocate system is part of the inner workings to respond to complaints. The Ombudsman is always an office of last resort. If hospitals are prepared to set up patient advocates, I think that's a positive step. Anything to help resolve public complaints is a positive step.

**Ms. Helena Jaczek:** And you have no objection to what is currently within Bill 11. Your position is it needs an addition—

**Mr. André Marin:** Correct. There's absolutely nothing offensive in Bill 11. There's nothing wrong that I can see. My only point is that it's not an answer to the oversight challenges that Ornge has faced in the past.

**Ms. Helena Jaczek:** Thank you.

**The Chair (Mr. Bas Balkissoon):** You've got a minute left.

**Mrs. Donna H. Cansfield:** Thank you. Just looking at this from a slightly different perspective, if in fact you had had oversight and you might have been able to pick up on a couple of those complaints earlier, I guess the supposition is that you might have been able to avoid some of what we're now dealing with.

**Mr. André Marin:** Correct.

**Mrs. Donna H. Cansfield:** Thank you.

**The Chair (Mr. Bas Balkissoon):** Thank you. We'll move to the opposition. Mr. Klees?

**Mr. Frank Klees:** Thank you, Mr. Chair, and thank you, Mr. Marin, for being here. I want to express our appreciation to you and your staff for the work that you do. You've certainly been very co-operative and responsive every time we've contacted your office.

**Mr. André Marin:** Thank you.

**Mr. Frank Klees:** I just want to say at the outset that we will certainly be bringing forward an amendment to this bill to in fact give you the oversight over this organization. I've certainly seen enough, after some 60 witnesses now and the trail that we have at Ornge, to know that the oversight and, quite frankly, the authority of your office is necessary.

I think the line of questioning that Ms. Jaczek took with you certainly supports the fact that there should be no reason why you would not be given that oversight. To absorb 29—if that is an indication of what would happen on a go-forward basis—29 complaints to be absorbed into your organization would certainly not be a financial burden. In fact, I think we would probably have saved multi-millions of dollars had you had the oversight.

I'd like to ask you, are you familiar with the Ministry of Health's initiative to establish the air ambulance oversight program, which, according to the minister, is their response to an oversight mechanism within the Ministry of Health?

**Mr. André Marin:** It was mentioned in a letter I received this morning from the minister, but beyond that, no.

**Mr. Frank Klees:** Okay. The ministry took the initiative to create this new program. They hired an individual to oversee this specific program, who, in turn, hired six additional staff. Through questioning here last week of that new director of that program, we asked what experience he has in either air or land ambulance. He responded, "None."

He also confirmed that none of the six new staff that he hired to help him with his oversight responsibilities in this program have any experience in either air or land

ambulance. We—when I say “we,” some of us—at this table feel that it’s very difficult for someone to exercise oversight if they have no knowledge of the context of that very specialized function.

I’d like your opinion as to whether or not it is important, for someone who has oversight responsibility, that they would at least have some knowledge of the functions that they are overseeing?

**Mr. André Marin:** In regard to our office, we oversee over 500 different bodies, and I don’t consider myself an expert in 500 different bodies. We are experts at investigation, at getting to the bottom of things. We go where the expertise is. So when we conducted an investigation on newborn screening, for example—what do I know about newborn screening? I’m not an expert in the field. We had to go out, look at other jurisdictions, ramp up our knowledge, and then we apply common sense and reason and articulate it in a report. It was the same thing with Municipal Property Assessment Corp., where you’re talking about complex algorithms to calculate values of homes, or the OLG, based on statistical odds of winning lotteries.

These are all specialty areas where I knew very little at the beginning, but I’m supported by an office of 87 people. We go out and get our evidence. We apply it, just like a jury would in a case.

To come back to your question, I don’t think it’s necessary that the overseer have that particular expertise in the area. But the overseer has to have the proper investigative skills and resources to get out there and get the evidence. If you tell me there are only six people, and they’re working within an organization, my concern would be that they don’t have the independence and resources to go to the information. That would be my greater concern.

**Mr. Frank Klees:** Let’s take the MPAC example. If you were to do your investigation of MPAC and found that the individuals who had the responsibility to do the assessments knew nothing about the real estate market, had no concept of estimates, had no previous background or experience in terms of the various assessment methodologies, as the Ombudsman, I would expect that you may well point to that as one of the reasons that there’s a problem with the MPAC system.

**Mr. André Marin:** Precisely. You know, I think the word “oversight” can be misused, so I’m not sure if the people you’re referring to are people actually within the organization. To me, oversight is outside the organization. It has no connection to the organization. If you’re within the organization providing oversight, there’s a period where that oversight can really be an exercise in managerial supervision rather than oversight. Of course, you would need people within the organization to have those skill sets and knowledge. We did find at MPAC that there were big issues with the quality of the assessments; 40% of them were actually inaccurate because of the lack of professionalism in that organization at that time.

**Mr. Frank Klees:** Thank you for that, and that’s precisely the point I’m getting at. These people in the

ambulance oversight program have the responsibility to analyze the reports that are sent in to the ministry by Ornge. Without knowing anything about the air ambulance business or industry, how can they possibly determine whether or not the information that Ornge is submitting to them is credible? They don’t even know what questions to ask if, in fact, there seems to be an issue. That’s why I think it’s important that you have oversight responsibility because, sir, you will be the only person who will be able to tell us and get to the bottom of the lack of credibility that many of the functions within the Ministry of Health have. I would expect one of the things that you would want to ensure is that information that is flowing from Ornge is, in fact, credible, that we can rely on it so that then the Ministry of Health can take action on that. We don’t have that today.

**Mr. André Marin:** That’s correct.

**Mr. Frank Klees:** There are very complex reports that are coming to the Ministry of Health every day, and we have people who have no idea whether or not those reports are credible.

Could you give us an estimate, because I know this is always the pushback: Government and ministers don’t want to make you any more powerful; they see you as a threat. With regard to air ambulance, with regard to Ornge, what would the additional cost be to the government to give you that extended oversight over this organization?

**Mr. André Marin:** I don’t see that it would be any additional cost with regard to oversight. I cannot imagine that, dealing with 20,000 cases, adding 29 to the pot would require additional funding. I cannot see it at all. Plus, I would expect Ornge to be squeaky clean going forward, right?

**Mr. Frank Klees:** Well, all the more reason why I’d like you to be there.

**Mr. André Marin:** Yes.

1710

**Mr. Frank Klees:** I find it interesting, in that regard, that the number of complaints to you about Ornge has actually significantly increased within the last 18 months. Can you share with us what the nature of those complaints is?

**The Chair (Mr. Bas Balkissoon):** We have one minute left.

**Mr. André Marin:** The 11 complaints in the last year—three out of the 11 complaints received are whistle-blowers. Here are some areas: negative media reports about Ornge are accurate; in cases of non-emergency transfer, Ornge does not use its nurses or EMS staff to screen for infection control and instead has non-medical staff undergo three-week infection control training which, in the complainant’s view, is not sufficient; Ornge misappropriating government funds and providing substandard services by lowering qualifications for paramedics; creating a monopoly over medical air transport; improperly relocating a heliport location; and lack of ministry oversight.

**Mr. Frank Klees:** And these are all within the last 18 months.

**Mr. André Marin:** Yes.

**Mr. Frank Klees:** Chair, I'd like to ask, if the Ombudsman is willing, if you wouldn't mind providing us with a written report on that. I understand that you have privacy issues. We're not looking for any identification information. But it would be very helpful if you could provide the committee with that information so that we know what the issues are that are still very current at Ornge.

**Mr. André Marin:** Yes, I will speak to counsel within our office and see whether we could provide you with that information.

**Mr. Frank Klees:** Thank you very much.

**The Chair (Mr. Bas Balkissoon):** Thank you, Mr. Marin, for being here with us.

**Mr. André Marin:** Thank you.

### MINISTRY OF HEALTH AND LONG-TERM CARE

**The Chair (Mr. Bas Balkissoon):** Our next deputant is the Ministry of Health and Long-Term Care.

*Interjections.*

**The Chair (Mr. Bas Balkissoon):** Are the bells going to ring? Is it going to be soon? We're just going to find out exactly what time it will take before we start. Just give me a second.

*Interjections.*

**The Chair (Mr. Bas Balkissoon):** We may get interrupted for a vote.

**Mr. Paul Kaufman:** Okay.

**The Chair (Mr. Bas Balkissoon):** If we do, we'll have to put you on hold and come back.

**Mr. Paul Kaufman:** Certainly.

**The Chair (Mr. Bas Balkissoon):** You have five minutes for a presentation, and then we'll go 10 minutes per party on questions. Are you Mr. Kaufman?

**Mr. Paul Kaufman:** Yes, I am.

**The Chair (Mr. Bas Balkissoon):** Okay. Just state your name for the record and go right ahead.

**Mr. Paul Kaufman:** My name is Paul Kaufman. Thank you, Mr. Chair. Good afternoon.

I'm a lawyer with the legal services branch at the Ministry of Health and Long-Term Care, and I'm here today to provide a brief technical overview of key features in Bill 11, the Ambulance Amendment Act (Air Ambulances), 2013. Following my presentation, I'm pleased to answer any technical questions you have about Bill 11.

Bill 11 is intended to provide the provincial government with powers for intervention in the public interest in relation to providers of air ambulance services in Ontario.

The legislation does not expressly mention Ornge, but Bill 11 would provide the province with accountability tools that it could use in connection with Ornge or any other designated entity that may provide air ambulance services in the province. Many of these tools are based on mechanisms that are currently in the Public Hospitals Act

and that the province can currently use in connection with public hospitals.

Specifically, Bill 11 would, if passed, give the government the following powers:

The Lieutenant Governor in Council would have the power to appoint one or more provincial representatives to the board of directors of a designated air ambulance service provider.

The Minister of Health and Long-Term Care could issue binding directives to designated air ambulance service providers where it's in the public interest to do so.

The Lieutenant Governor in Council could appoint a special investigator, where it's in the public interest to do so, with broad powers to report on the quality of the administration and management of a designated air ambulance service provider; the quality of the care and treatment provided by a service provider; the services provided by a designated service provider; or any other matter relating to a designated air ambulance service provider.

The Lieutenant Governor in Council could also appoint a supervisor for a designated air ambulance service provider, on the minister's recommendation, where it's in the public interest to do so. Generally, the minister would need to provide 14 days' notice to the board of the provider before recommending a supervisor appointment to cabinet. However, this could be abridged in urgent circumstances.

Bill 11 would further provide that the minister or the Lieutenant Governor in Council could consider any matter that they consider relevant in making a decision in the public interest. The bill would also provide for very specific matters that could be considered when making a public interest decision, including:

- the quality of the administration and management of a service provider;

- the proper management of the health care system in general;

- the availability of health care funding;

- the accessibility of air ambulance services in the province; and

- the quality of care and treatment provided by the service provider.

Bill 11 would also provide the Lieutenant Governor in Council with extensive regulation-making powers in connection with designated air ambulance service providers, including:

- the power to make regulations providing for provisions that would be deemed to be in an agreement between the government and a designated air ambulance service provider;

- setting performance standards and measures and requiring compliance with those standards and measures;

- respecting the content of the bylaws and letters patent of a designated air ambulance service provider; and

- generally relating to the governance and management of designated air ambulance service providers.

Bill 11 would also facilitate the continuance of Ornge as a provincial corporation. On this point, you should understand that it's legally possible for a corporation which has been incorporated under the laws of one jurisdiction to be "continued," which is the technical legal term, as if it had been incorporated under the laws of another jurisdiction.

A continued corporation retains its status as a legal person, its property and its liabilities. In order for this to happen, there must be enabling legislation in both the exporting jurisdiction, where the corporation was first established, and in the importing jurisdiction, where the corporation wishes to be continued.

Bill 11 contains wording that corresponds to the Canada Not-for-Profit Corporations Act and that would preserve the legal identity and liabilities of Ornge if it were to become provincially incorporated.

Finally, Bill 11 would protect whistle-blowers from retaliation for disclosures that are made to the ministry or to an investigator, inspector or special investigator under the Ambulance Act. Bill 11 would also introduce prohibitions against discouraging individuals from making disclosures to the ministry or inspectors, and prohibitions against encouraging individuals not to make such disclosures.

Thank you again for this opportunity to present to you. Now I'm happy to take your questions about Bill 11.

**The Chair (Mr. Bas Balkissoon):** Thank you. We will start with the government. Ms. Jaczek.

**Ms. Helena Jaczek:** Thank you for your presentation. I really will only have a couple of questions. Why was the Public Hospitals Act used as the model for this amendment to the Ambulance Act?

**Mr. Paul Kaufman:** The Public Hospitals Act framework is something that has been in place for a long time in Ontario, and it's familiar to health sector players in Ontario. It's also something that has been used effectively by the ministry and the Ontario government where there are significant issues at large public hospitals where action is needed by the provincial government, either to investigate what's going on or, if something untoward is found to be going on, to put a supervisor in place to temporarily take over the operations of the hospital.

**Ms. Helena Jaczek:** Why did you choose that statute? There presumably must have been some similarities in the service.

**Mr. Paul Kaufman:** Well, yes. Hospitals, like Ornge, provide essential health services. Ornge receives significant funding from the government, like public hospitals do. It is a corporation like most public hospitals are. So there were a lot of similarities between how Ornge operates, and in terms of the importance of the services that it provides in the health sector, and what is provided by hospitals.

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**Ms. Helena Jaczek:** This business of Ornge originally being federally incorporated and now there's a change, this continuance or whatever it is: Why is that necessary?

**Mr. Paul Kaufman:** That's necessary because there are constitutional limitations around what the Ontario

Legislature can do in connection with interfering with the governance and the overseeing of a corporation by its board where that corporation is federally incorporated. Because both the province and the federal government have legislated corporate law regimes, and because under our division-of-powers scheme in Canada, where legislative action by both levels of government comes into conflict, the federal government's legislative regime would trump in this case. The province couldn't, for example, pass legislation today that would displace Ornge's board's authority to give direction to the corporation because that would effectively be displacing the federal government's corporate law regime.

**Ms. Helena Jaczek:** So this is just in case something goes wrong in the future in terms that this is an independent board and therefore you require this.

**Mr. Paul Kaufman:** Yes. For example, if this bill were to pass as it's currently drafted and the government was to try to appoint a supervisor who would exercise the powers of a board, that would only be effective if Ornge was provincially incorporated.

**Ms. Helena Jaczek:** We have heard in public accounts that there are some hospitals which are federally incorporated. Is there any move to amend that, their status?

**Mr. Paul Kaufman:** Well, that would have to be a move, I think, that would be initiated by those hospitals because they are in control of their own corporate personality. The three, I think, that still exist plus the Salvation Army have existed for a long time and we can't legislate away their ability to incorporate federally. I don't know if there's been any specific discussions with them about having them become provincially incorporated.

**Ms. Helena Jaczek:** But of course, we fund them, right?

**Mr. Paul Kaufman:** Yes.

**Ms. Helena Jaczek:** Supposing something was to go wrong in one of those hospitals—a whistle-blower phoning or whatever—what would happen?

**Mr. Paul Kaufman:** Obviously, it's difficult to speculate without knowing exactly what was going wrong, but there are other mechanisms in the Public Hospitals Act that still could be used in connection with a federally incorporated hospital. For example, an investigator could be appointed who could make a report to the minister that could be made public that describes what the issue is, and that might create community pressure.

**Ms. Helena Jaczek:** So there are still provisions in the Public Hospitals Act that would allow for those activities—

**Mr. Paul Kaufman:** Yes.

**Ms. Helena Jaczek:** —which were not able to be used in the case of Ornge because, obviously, it wasn't the Public Hospitals Act, and the Ambulance Act didn't include the provisions that we're putting in with Bill 11.

**Mr. Paul Kaufman:** That's correct.

**Ms. Helena Jaczek:** Okay, thank you.

Well, I do have one question. Obviously you've heard the Ombudsman and his request for an amendment that

would allow him oversight. From a legal perspective, do you see any objection to that? Do you see any impediment to that kind of an amendment?

**Mr. Paul Kaufman:** As to whether or not there was an impediment to making that kind of amendment, I'd probably defer to the Chair and the Clerk, who would be more well versed in legislative process and how that could happen if another act was to be opened up. I think there are sometimes issues around going outside the scope of a current bill, but I think that's more the Clerk's province—

**Ms. Helena Jaczek:** You mean in relation to opening up the Ombudsman Act.

**Mr. Paul Kaufman:** Yes.

**Ms. Helena Jaczek:** I see. Put that aside for moment. But in terms of adding an amendment to this particular Bill 11—

**Mr. Paul Kaufman:** Would it create legal difficulties for the bill itself, do you mean?

**Ms. Helena Jaczek:** Yes.

**Mr. Paul Kaufman:** It wouldn't undermine, necessarily, any of the mechanisms that we have in place here. It would be a separate item.

**Ms. Helena Jaczek:** Within Bill 11 as it currently stands, we do have some whistle-blower protection initiatives. Could you just flesh those out for us and give us a little bit more on that?

**Mr. Paul Kaufman:** Sure. What would be the new section 7.7 of the Ambulance Act, if the bill were to be passed as it's currently drafted, would prevent retaliation against individuals who either make disclosures to regulatory overseers—that's inspectors, investigators or special investigators—or to the Ministry of Health and Long-Term Care, both in its regulatory and funding oversight capacity.

What retaliation means for the purposes of those sections is—it's a very general, broad definition so it can be read very broadly by a court if prosecution was ever to be brought under this provision. But it specifically includes dismissing staff members, disciplining staff, imposing penalties upon people or intimidating, coercing or harassing people.

There are also specific provisions for greater clarity to make sure that these are seen by courts to be within the scope of this protection that make it clear that individuals cannot discourage people from making reports to inspectors or the ministry and that you also can't reward people for not making reports.

**Ms. Helena Jaczek:** My colleague has one question.

**Mrs. Donna H. Cansfield:** Thank you. I just have a couple of questions. Around the incorporation—first of all, thank you for the overview, because it was excellent.

**Mr. Paul Kaufman:** Thank you.

**Mrs. Donna H. Cansfield:** In essence, you've got that the minister could appoint one or two representatives, but if you've got an incorporated board, once they're appointed, then they're responsible to the board, not to the minister. It's true of any board. So that's one.

The second is, when you say the Minister of Health and Long-Term Care could issue binding directives, are

you talking about ministerial directives? That's one question.

And then, it's interesting; there's lots of "coulds" but I don't see any triggers. You could do this or you could consider that, but what are the triggers that would say you should do this, you could, in fact, investigate?

And then I was just curious around the last—again, there could be a whistle-blower, there is protection, but there's nothing that speaks to any public accountability.

Now, in fairness, I have not read this act from one end to the other and memorized it; I'm just sort of curious about these questions.

**Mr. Paul Kaufman:** Certainly. I made some quick notes, but if I miss something, please let me know.

On the rights and responsibilities of board members, first, the default position in the act is that provincial board members would have the same rights and responsibilities as any other member of the board. However, there is an ability to actually vary those rights and responsibilities through regulations if it was seen to be a problem in a particular circumstance. So if provincially appointed board members weren't getting appropriate notice of meetings, for example, that's something that could be dealt with through regulations. Or if there were conflicts found that they were having difficulty navigating, that is something that could be dealt with through regulations.

On the directives, those would be ministerial directives. They would be made at the discretion of the minister, but the potential subject matter of those directives isn't circumscribed in the bill, so they could be very wide-ranging in terms of their subject matter.

Triggers—

**Mrs. Donna H. Cansfield:** Would they be made public?

**Mr. Paul Kaufman:** They could be made public, yes. Nothing prohibits it and there's no rule at law that I'm aware of that would prohibit it.

**Mrs. Donna H. Cansfield:** But there's nothing that says it would happen.

**Mr. Paul Kaufman:** That it must be made public?

**Mrs. Donna H. Cansfield:** Yes.

**Mr. Paul Kaufman:** No.

In terms of triggers, most of these powers are discretionary. The idea is that—I think the thinking was that we're basing a lot of this on the Public Hospitals Act and there aren't minimum thresholds you have to get to before you have a mandatory trigger to take action. There are requirements, in some cases, that actions that cabinet or the minister take have to be in the public interest. As I spoke to in my overview, public interest considerations that are valid considerations, specific ones, are set out in the bill. Also, any other broad matter or any other matter that the minister considers relevant could be taken into account in making those determinations. Ultimately, in terms of public accountability, the—

**The Chair (Mr. Bas Balkissoon):** Sorry, I have to interrupt right here. I sort of missed the one-minute mark, but time's up. We have to move to Mr. Klees.

**Mr. Frank Klees:** Thank you, Chair. Thank you, Mr. Kaufman. I'm going to ask you to help me clarify something with regard to the authority to exercise control or to appoint a supervisor at Ornge.

We had a memo here from Carole McKeogh, deputy director of the legal services branch at the ministry. You work with Ms. McKeogh, do you?

**Mr. Paul Kaufman:** Yes, I do.

**Mr. Frank Klees:** In that memo to us, which was in response to the authority to intervene, Ms. McKeogh made it very clear that Ornge is not an independent health facility for the purposes of the Independent Health Facilities Act—and we understand that. She also, however, went on to say that the Health Facilities Special Orders Act applies to health facilities which are defined to include ambulance services under the Ambulance Act, and Ornge is an ambulance service under the Ambulance Act, so it does come under the control of the Health Facilities Special Orders Act. Would you agree with that?

1730

**Mr. Paul Kaufman:** Yes, that's my understanding.

**Mr. Frank Klees:** I have here a copy of that act. I'm sure you're very familiar with it. Do you have a copy as well?

**Mr. Paul Kaufman:** I have a copy of it. I haven't worked extensively with it.

**Mr. Frank Klees:** Okay. I'm looking at "Purposes," which is under section 2, that sets out the purposes of the act. In 2.1, it states very clearly: "To enable the minister to act expeditiously to prevent, eliminate or reduce harm to any person, an adverse effect on the health of any person or impairment of the safety of any person caused or likely to be caused by the physical state of a health facility or the manner of operation of a health facility."

Paragraph 2 states: "To enable the minister to act expeditiously where the conduct of a licensee or of an officer or director of a corporate licensee affords reasonable grounds for belief that the health facility is not being or is not likely to be operated with competence, honesty, integrity and concern for the health and safety of persons served by the health facility."

The reason I wanted to read that into the record is that anyone's interpretation, I would think, of that last paragraph referring to questioning the competence, the honesty, the integrity of those responsible for operating Ornge certainly would have fallen under this category. Would you agree with that?

**Mr. Paul Kaufman:** Based on what I've heard publicly? Sure.

**Mr. Frank Klees:** So based on that, under the Health Facilities Special Orders Act, certainly the minister would have authority here.

Under section 7.1, it states as follows: "Where either the licence for a health facility is suspended under this act or the licensee of an ambulance service is required by order under this act to suspend the provision of ambulance services and the minister is of the opinion that the health facility should continue in operation in order to provide temporarily for the health and safety of per-

sons"—so the application to Ornge here would be to say, "This is an emergency service. We're not going to shut it down; it has to continue." It goes on to say that "the minister by a written order may take control of and operate the health facility for a period not exceeding six months." The application here to Ornge would be that certainly the minister would have, under this act, the authority to take over Ornge and its operations for at least a period of six months. Would you agree with that?

**Mr. Paul Kaufman:** No, I wouldn't.

**Mr. Frank Klees:** Why not?

**Mr. Paul Kaufman:** Because subsection 7(1) of the Health Facilities Special Orders Act, which provides—it's all premised on a health facilities licence having already been suspended under the act, and the power—

**Mr. Frank Klees:** Yes. She has the right to do that, and she would have the right to suspend the licence of Ornge.

**Mr. Paul Kaufman:** But I believe the right to suspend a licence only comes up where there's a risk to health and safety under subsection 3(1) of the act.

**Mr. Frank Klees:** No, I don't think so.

**Mr. Paul Kaufman:** On my read, that's how it works.

**Mr. Frank Klees:** And the interpretation, based on what we had as evidence, some 45 incidents reported to the coroner of lives being put in danger: Are you suggesting that that would not fall into this category?

**The Chair (Mr. Bas Balkissoon):** I would like to interrupt. The bells are ringing and we have to go for a vote. The only problem we face is, if we're not back with enough time to continue, we have to end at 6, and Mr. Kaufman would have to come back at the next meeting of the committee.

Ms. Gélinas, you have a question?

**M<sup>me</sup> France Gélinas:** It doesn't take me eight minutes to walk down there. I don't think it will take any of us eight minutes. How about we go for another five and let Frank finish?

**Mr. Frank Klees:** Thank you.

**The Chair (Mr. Bas Balkissoon):** Okay. Carry on.

**Mr. Frank Klees:** My point simply is that knowing what we know about what was going on at Ornge, clearly the minister, under this act, would have had the authority to step in and say, "Look, you're putting lives at risk. We have heard enough. We're suspending your licence, and I'm going to ensure that the service continues, because this is an emergency service." Would you not agree with that?

**Mr. Paul Kaufman:** I can't speak to what specific facts, at a specific time, may have been put before the minister and might have informed a decision to take action under this act or not.

**Mr. Frank Klees:** Okay. The next paragraph, section 1.1, states, again, very clearly that "the Minister by a written order, may, rather than taking control of and operating the ambulance service under subsection (1), select a person, who holds a certificate under section 8 of the Ambulance Act, to manage, operate and administer

the ambulance service...." That sounds like a supervisor to me.

**Mr. Paul Kaufman:** Again—pardon me. Did I cut you off? Okay.

**Mr. Frank Klees:** My point is this: Based on what this act tells us, the minister had the authority, under the Health Facilities Special Orders Act, to intervene, to suspend a licence, to continue to operate it and to appoint a supervisor. The authority was there, and what we have here in Bill 11 is simply a duplication of that.

What we don't understand at this committee is why, first of all, the minister didn't assume that authority, and why, when we asked Ms. McKeogh for her assessment of whether or not the Health Facilities Special Orders Act applies to Ornge, she failed to mention either of those sections in the act. Would you have an explanation for us?

**Mr. Paul Kaufman:** As to why those weren't mentioned in what Ms. McKeogh gave you, or as to having the power to appoint a supervisor is different from what's in the Health Facilities Special Orders Act?

**Mr. Frank Klees:** Why Ms. McKeogh would not have fully disclosed this information to the committee.

**Mr. Paul Kaufman:** I don't believe that she failed to fully disclose any relevant information to the committee. My understanding is, and I don't know exactly what opinion—what was requested of her by the committee. However, if the opinion she was providing was relating solely to governance issues, then the power to appoint someone to temporarily run Ornge would not have been relevant, because, again, a licence can only be suspended where there's a risk to health and safety.

**Mr. Frank Klees:** Look, it wasn't solely for governance issues. The purpose of the act is stated very clearly, and that is "that the health facility is not being or is not likely to be operated with competence, honesty, integrity and concern for the health and safety of persons served by the health facility." Clearly, Ornge falls into that category.

**Mr. Paul Kaufman:** But a purpose clause only generally frames the specific contents of the bill. It doesn't, in and of itself, give you a legal basis upon which specific action can be taken. It has to be tied to specific sections of the bill.

**Mr. Frank Klees:** And that's why I referred to the other sections of this act, which are very specific as well, in terms of the conditions under which the licence of Ornge could be suspended, under which supervisors could be appointed.

The point simply is that we have a piece of legislation here that very clearly gives the minister the authority to intervene at Ornge, to take over the licence, to appoint a supervisor, and we continue to be told by the minister, and now today by you, in questioning from Ms. Jaczek, that that authority wasn't there.

**The Chair (Mr. Bas Balkissoon):** I will have to interrupt. Time's up. We just have questions from Ms. Gélinas, so we'll do that after the vote. Hopefully, we

have 10 minutes before 6 p.m. Mr. Kaufman, if you can just hold on until we return.

**Mr. Paul Kaufman:** Certainly.

**The Chair (Mr. Bas Balkissoon):** We're recessed.

*The committee recessed from 1739 to 1750.*

**The Chair (Mr. Bas Balkissoon):** We will reconvene. Ms. Gélinas?

**M<sup>me</sup> France Gélinas:** I thought I would make a joke and say I have no questions. I brought you all back here for nothing.

Actually, I do have a few questions, Chair. My first one is, this discretionary power respecting the content of the bylaws in the letters patent: Do you know if this is part of the hospital act that the minister can change letters patent?

**Mr. Paul Kaufman:** Not letters patent, but cabinet can set rules regarding hospital bylaws.

**M<sup>me</sup> France Gélinas:** Okay, but not letters patent.

**Mr. Paul Kaufman:** That's right.

**M<sup>me</sup> France Gélinas:** Where does this idea come from that you would need to change the letters patent?

**Mr. Paul Kaufman:** I believe it was a response to the convoluted corporate structure at Ornge. The corporate governance had gotten out of control. The letters patent are effectively the constitutional document of a corporation's corporate governance structure. If there were potential problems in the future in that area, this power might be potentially relevant.

**M<sup>me</sup> France Gélinas:** Okay. Can you see that, given that so much of Bill 11 mimics what's in the hospital act and now you're adding to Bill 11 the discretionary power of the minister to change letters patent, this sets a precedent that could then be applied to the hospital act? If we do it in this bill, what keeps us from changing the hospital act, or any other, for that matter?

**Mr. Paul Kaufman:** Just to clarify one thing, it's cabinet's power, not the minister's. But you're the Legislature; you can do it in the Public Hospitals Act whether or not it's done in this bill. It doesn't set a binding precedent, but I guess I take your point that it would be a policy precedent.

**M<sup>me</sup> France Gélinas:** It would be a precedent and make a lot of people nervous. Right now, you realize that we have hospitals that are incorporated at the federal level, which means that the minister cannot appoint a supervisor to those hospitals if she saw fit. Since she has been the minister, she has made use of that power for a good reason. If those good reasons were to happen in the hospitals that are incorporated at the federal level, she would not have that power, would she?

**Mr. Paul Kaufman:** No.

**M<sup>me</sup> France Gélinas:** Does that worry you?

**Mr. Paul Kaufman:** There are other tools in the Public Hospitals Act that we could use, including investigators, having inspectors go in and do inspections, and using funding levers. Does it worry me? It's a limitation on our ability to respond to things.

**M<sup>me</sup> France Gélinas:** But yet there is nothing in place right now to have those hospitals change? You've already answered that question.

**Mr. Paul Kaufman:** I'm not aware of anything. I can't speak exhaustively to what the ministry may or may not be doing in other areas.

**M<sup>me</sup> France Gélinas:** Okay. One of the requests we had made the first time this bill came around was freedom of access of information—that air ambulance should be covered by FIPPA. Why is it not in the bill?

**Mr. Paul Kaufman:** I believe the government is moving forward to do that by regulation, which is the usual way that new institutions are brought under FIPPA. A draft regulation to do that was posted, and I think the government has publicly expressed its intent to bring Ornge under FIPPA.

**M<sup>me</sup> France Gélinas:** Okay. Do you know if they're working on it right now and where they are in the process of changing the regulations?

**Mr. Paul Kaufman:** I believe that's very close to being finalized. It's definitely something that has been moved forward very recently.

**M<sup>me</sup> France Gélinas:** It will be ready shortly?

**Mr. Paul Kaufman:** That's my understanding, subject to—of course, it's a regulation so it needs approval from cabinet and the Lieutenant Governor before it could become law.

**M<sup>me</sup> France Gélinas:** Any idea when it will be ready enough that it could be presented to cabinet?

**Mr. Paul Kaufman:** I need to be very careful about cabinet confidentiality, but I expect that that could be done very quickly.

**M<sup>me</sup> France Gélinas:** Very soon?

**Mr. Paul Kaufman:** Yes.

**M<sup>me</sup> France Gélinas:** Okay. The bill gives the minister a whole bunch of new powers that mimic the hospital act but goes beyond what we have in the hospital act—about an agency that has been under the microscope for two years non-stop. There are lots of other agencies of the Ministry of Health out there that have not been under the microscope for the last year and a half. What are we doing with them?

**Mr. Paul Kaufman:** Well, if you look at different slices of the health care sector, we have different powers that are sometimes tailored towards the dynamics in those health care sectors. With boards of health, the minister and the Chief Medical Officer of Health have remedial and oversight powers that they can use in connection with boards of health that are tailored to dealing with public health risks, for example. With CCACs, there are existing powers to appoint a supervisor.

In other sectors, there may be the ability to revoke licences or to take other types of action, or to use funding levers to bring entities into compliance.

**M<sup>me</sup> France Gélinas:** Okay. If there's a willingness of the ministry to do it, they work.

In Bill 11, you bring in whistle-blower protection. You've heard what I've said to the AG. Right now, the

whistle-blower protection that you have means that you could still lose your job; you could still lose your income; you will bring your employer to court. You're a lawyer. I think sometimes things are slow here, but we're bullet speed compared to the courts. So years later, this bill would allow you to gain your job back—is that a pretty accurate description of what will happen to a whistle-blower?

**Mr. Paul Kaufman:** I'd just note that the act would create an offence if you were to retaliate against a whistle-blower. An individual wouldn't need to pay the legal costs of taking action under the proposed whistle-blower protections; that would be a prosecution brought forward by the government. The individual wouldn't be out of pocket, while those legal proceedings were going on, for the legal costs of launching those proceedings. But I appreciate the other points that you make.

**M<sup>me</sup> France Gélinas:** The other points that I make: You're without an income, you're without a job, for the time that those proceedings take—

**Mr. Paul Kaufman:** If you were fired. But retaliation against whistle-blowers doesn't necessarily always mean firing someone. In some cases, it can be other types of less severe action, so I don't know—

**M<sup>me</sup> France Gélinas:** I'll put you in contact with some of the whistle-blowers at Ornge who are presently unemployed. It happens.

What the Ombudsman has put forward is really—he is the ultimate whistle-blower protection. You call the Ombudsman; they will do a third-party-independent investigation, and you are at no threat of losing your job. Why was that not looked at as a whistle-blower protection?

**Mr. Paul Kaufman:** To be honest, my involvement in this bill has been drafting it based on the policy that was set by the ministry, and I can't speak to why the policy direction is what it is in that regard.

**M<sup>me</sup> France Gélinas:** Okay. Do you agree that the Ombudsman gives whistle-blower protection?

**Mr. Paul Kaufman:** Well, I think the Ombudsman's position was that the individuals could make anonymous complaints to the Ombudsman. Nothing in this bill would preclude anonymous complaints being made to the ministry and the accountability and oversight tools in this bill being used by the ministry in connection with an anonymous complaint.

**M<sup>me</sup> France Gélinas:** You didn't answer my question.

**Mr. Paul Kaufman:** Sorry, I—

**M<sup>me</sup> France Gélinas:** My question is, do you agree that the Ombudsman provides whistle-blower protection?

**Mr. Paul Kaufman:** I don't know that the Ombudsman Act specifically provides whistle-blower protection in the form that's typically used legally—

**The Chair (Mr. Bas Balkissoon):** You have a minute left.

**Mr. Paul Kaufman:** —in terms of being able to prosecute retaliation against people who are whistle-blowers.

**M<sup>me</sup> France Gélinas:** So you disagree with what the Ombudsman said today?

**Mr. Paul Kaufman:** I think the Ombudsman wasn't taking a literal legal read on the term "whistle-blower protection" in the sense that I'm speaking about it. I think he was talking about the ability of his office to take action when people make disclosures to him. I agree that when people make disclosures to the Ombudsman, he can look into matters and, if it's an anonymous complaint, they wouldn't be known.

**M<sup>me</sup> France Gélinas:** Do you know why there was no policy direction to include Ombudsman oversight of Ornge?

**Mr. Paul Kaufman:** No.

**M<sup>me</sup> France Gélinas:** This was never brought up?

**Mr. Paul Kaufman:** I wasn't involved in the policy development discussions that led to this bill, so I don't know if it was brought up or not.

**M<sup>me</sup> France Gélinas:** Okay. Thank you.

**The Chair (Mr. Bas Balkissoon):** Thank you, Mr. Kaufman. Thank you for coming in and for being here.

Committee, before we adjourn, we don't have any further directions on this bill and we don't have dates left on the calendar until we come back in September. I'm just making you aware of that.

Committee is adjourned, and we'll now convene as a subcommittee.

*The committee adjourned at 1800.*

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Second Session, 40<sup>th</sup> Parliament

# Official Report of Debates (Hansard)

Monday 9 September 2013

Standing Committee on  
General Government

Organization

Assemblée législative  
de l'Ontario

Deuxième session, 40<sup>e</sup> législature



# Journal des débats (Hansard)

Lundi 9 septembre 2013

Comité permanent des  
affaires gouvernementales

Organisation

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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Monday 9 September 2013

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Lundi 9 septembre 2013

*The committee met at 1408 in committee room 2.*

## ORGANIZATION

**The Vice-Chair (Mrs. Donna H. Cansfield):** Good afternoon, everyone. It is my pleasure to be able to entertain a motion for Chair. Who has a motion for Chair?

**Ms. Sylvia Jones:** Who has a motion for Chair?

**Mr. Rosario Marchese:** Who's got the motion?

**Ms. Dipika Damerla:** It would be me, but I'm just trying to figure it out.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Someone needs to read the motion.

**Ms. Dipika Damerla:** I move that Grant Crack be Chair of this committee.

**The Vice-Chair (Mrs. Donna H. Cansfield):** Thank you very much. I have received a motion. Is there any debate?

Seeing no debate, are the members ready to vote?

Ladies and gentlemen, shall the motion carry? Thank you very much.

Mr. Crack, would you like to take the chair?

**The Chair (Mr. Grant Crack):** Members of the committee, Clerk and legislative counsel, it's certainly an honour for me to be chosen as Chair of this prestigious committee. I thank you for having the confidence in me and I shall do my best. It will be my first attempt at chairing a committee of the Legislature. So thank you very much and I ask for your patience until we get rolling.

I believe that we need a motion to move in committee—

**Mrs. Donna H. Cansfield:** Could I make another motion first?

**The Chair (Mr. Grant Crack):** Yes, Mrs. Cansfield.

**Mrs. Donna H. Cansfield:** Chair, I'd like to move that the following changes be made to the membership of the subcommittee on committee business: that Mr. Colle be replaced by Ms. Dipika Damerla.

**The Chair (Mr. Grant Crack):** There's a motion to replace—

**Mrs. Donna H. Cansfield:** Mike Colle by Dipika Damerla.

**The Chair (Mr. Grant Crack):** —Mr. Mike Colle with MPP Dipika Damerla. Any further discussion on the motion? Those in favour? There are none opposed. The motion's carried.

Mr. Marchese.

**Mr. Rosario Marchese:** Mr. Chair, I have a motion as well. I move that the following changes be made to the membership of the subcommittee on committee business: Mr. Marchese to be replaced by Ms. Campbell. You will miss me, I know.

**Ms. Laurie Scott:** We've tried. We tried to get Sarah back on. You wouldn't let us.

**Mr. Rosario Marchese:** We finally will have her.

**The Chair (Mr. Grant Crack):** Is there any further discussion on the motion? Those in favour? There are none opposed. The motion's carried.

Okay, so I understand that we're going to be moving on to our business of moving into a closed session at this point. I'd like to thank those who are in the audience and request that they vacate the premises.

*The committee continued in closed session at 1413.*

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